The Solicitors' Journal

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Current Topics.

Nomination of the Sheriffs.

JUST as the ceremony on the 9th of November, when the new Lord Mayor makes his bow in the court of the Lord Chief Justice, provides a little variation from the routine work there usually transacted, so, too, does the nomination of the sheriffs in the same court a few days later. On this occasion the Chancellor of the Exchequer, clad in his robe of office, presides, having on his right hand the Lord Chief Justice who, like the other judges taking part, is provided with a list of potential sheriffs—the list from Yorkshire being called "Lites," a word apparently having the same meaning as the Scots word "leet," and denoting a list of persons designated as eligible for office. From the lists so produced the names of three persons are selected for each of the counties and on these at a later date His Majesty "pricks," as it is called, the name of the person who is in fact to serve the office for the coming year. At one time, and that not so very long ago, the proceedings at the nomination were much more contentious, those on the lists desiring exemption being frequently represented by counsel in support of their claim. Nowadays, it is said that more care is shown in the preparation of the lists so as to include only those willing to serve: but even yet an occasional plea for exemption is put forward of insufficient means or of ill-health. In the old days, before the creation of the Supreme Court by the Judicature Act of 1873, the proceedings for the nomination of the sheriffs took place in the Court of Exchequer, and once or twice the placid atmosphere usually prevailing during the ceremony was disturbed on the delicate subject of precedence. Thus, in 1844, Sir FREDERICK POLLOCK, having succeeded LORD ABINGER as Chief Baron, was considerably astonished when the 12th of November came round to be met by a claim on the part of BARON PARKE to take precedence on the ground of being a Privy Councillor of senior rank. To prevent any delay or difficulty by asserting his right, the Chief Baron abstained from going into court, but left the question for subsequent settlement. The Home Secretary, Sir JAMES GRAHAM, was disposed to uphold BARON PARKE'S contention, but, on the matter being referred to LORD LYNDHURST and Sir ROBERT PEEL, the question was settled in favour of the Chief Baron. On another occasion we are told that GREVILLE, the Clerk to the Council, objected to the presence of BARON ALDERSON on the ground that it was a meeting of the Privy Council, and the Baron was not a Privy Councillor, but the chronicler who mentions this adds, "but this piece of presumption on his part was put down at once."

Chairmanship of London Sessions.

IN filling the vacancy in the office of Chairman of the London Sessions caused by the lamented death of Sir HENRY CURTIS BENNETT, almost immediately after his appointment, no better choice could have been made than that of Mr. EUSTACE CECIL FULTON, who, as the son of the late Sir FORREST FULTON, who filled successively and successfully the posts of Common Serjeant and Recorder of the City of London, can claim an hereditary aptitude for the work that will now devolve upon him, and has also himself many years' experience as counsel for the Treasury at the Central Criminal Court. The Chairman of these Sessions is invariably addressed as "My Lord," a practice at quarter sessions unusual unless the chairman happens to be a peer, but which is said to have originated on the instigation of Serjeant ADAMS, the first paid assistant judge of the Middlesex Sessions. According to the story, when he first took his seat on the bench, he gave out that he had LORD DENMAN'S authority for saying that he ought to be addressed as "My Lord." On LORD DENMAN being afterwards asked whether he had given such a direction, he replied, "Well, the truth is that JACK ADAMS came to me and said that the Bar at the Middlesex Sessions wished to know whether there would be any impropriety in their calling him 'My Lord,' and I told him I could see no objection to their styling him what they pleased, so as they did not call him JACK when he was on the bench, as that might appear disrespectful to a learned judge!" Thus, the qualified permission was construed as an express ordinance.

The Probation System.

SIR ROLLO GRAHAM-CAMPBELL, chief metropolitan magistrate, recently paid tribute at a meeting at 45 Park Lane in support of the London Police Court Mission (which is now in its diamond jubilee year), to the work done by police-court missionaries by means of the system of probation. According to the report in *The Times*, the speaker recalled that at the beginning of last century it was no uncommon thing for quite young offenders to be transported for long periods for trivial offences, and others were sent to prison for considerable periods. In 1876 the foundations of the present system of probation were laid. In the speaker's twenty-three years' experience as a metropolitan magistrate he had found that

probation officers were sympathetic, tactful, patient, hopeful, and firm if necessary. Many a man and woman, boy and girl, he said, now living honest, respectable lives would have gone under altogether but for the good offices of the police-court missionary under whose supervision they had been placed. It may be of interest to recall in this connection some figures illustrative of the recent growth of the probation system and of the extent to which it is now employed. In 1933 nearly 19,000 persons were placed on probation. Of these 119 persons were placed on probation by the Courts of Assize, compared with five in 1910, although the total number of convicted persons was considerably greater in the earlier year. In the courts of summary jurisdiction in England and Wales the percentage of those found guilty of indictable offences and placed on probation was eleven in 1910 and nineteen in 1933, corresponding figures for the juvenile courts being 26 and 54. It may also be recalled that the Departmental Committee of Social Services in Courts of Summary Jurisdiction in its report, which was referred to in this column in our issue of the 4th April last, while adverting to the desirability of the probation service being organised on a wholly public basis, recognised the scope which exists for the co-operation of the missionary services in the social services of the courts and the value of the assistance to the probation officer in individual cases capable of being rendered by voluntary help provided it is carefully supervised.

Prosecution of a House Agent.

BRIEF mention may be made of a recent case in which a house agent prosecuted by The Law Society was fined £5 for drawing an instrument of transfer of a house in expectation of a fee, and £5 for unlawfully lodging the transfer at the Land Registry. He was also ordered to pay a total of £10 costs. The prosecution was under s. 48 of the Solicitors Act, 1932, which enacts, subject to a proviso not material to the matter in hand, that any person, not being a barrister or a duly certified solicitor, notary public or conveyancer, who, for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument of transfer or charge for the purposes of the Land Registration Act, 1925, or makes any application or lodges any document for registration under that Act at the registry, shall on summary conviction be liable to a fine not exceeding £50. Section 118 of the Land Registration Act, 1925, is in substantially similar terms. According to the report in *The Times*, counsel for the prosecution said it was alleged that the transfer of a certain house was drawn and lodged by the house agent, who received a fee of £5 5s. from the purchasers. The prosecution was under the Solicitors Act, which was passed to protect the public against unqualified persons. The defendant's unorthodox methods had resulted in the property being registered in the name of the purchaser before the whole of the money was paid. He alleged that the defendant had avoided giving a receipt demanded for the fee. The latter maintained that the £5 5s. was paid him for securing a mortgage of £300.

Matrimonial Causes: Conciliation.

MR. CLAUD MULLINS recently addressed a letter to *The Times*, in which he urged the desirability of some conciliation machinery being available in all Poor Persons divorce cases. He referred to the report of the Police Court Social Services, whose recommendations on this point were alluded to in these columns in our issue of 4th April last, and to the new Marriage Bill which at the time of writing is on the eve of its second reading. Early next year, the writer stated, it was probable that the unanimous recommendations of this committee about reforming the procedure of these courts when dealing with marriage cases would be laid before Parliament. When these reforms had been carried out, was there not an unanswerable case for including in the new conciliation machinery all "Poor Persons" divorces? "Conciliation," the letter states, "does not mean the denial of legal rights. It does not mean the coercing of parties to live together in conditions that have become unbearable. Conciliation does mean, however, the provision for those who cannot afford professional advice of the help of experienced and sympathetic people who will, if the parties wish it, examine into the whole situation and try to get the parties to look all round before taking a step that may be final, both for themselves and their children." Allusion is made to the value of conciliation procedure in the police courts, with the suggestion that it is both illogical and socially dangerous that when the same type of person seeks a divorce only legal assistance is provided. Before lawyers are allotted, the possibilities of conciliation should, it is urged, be investigated. Conciliation, as the letter emphasises, does not mean the denial of legal rights, and it is important that the truth of this proposition, if the system were extended as suggested, should not be belied in practice. Mr. LEO PAGE, in his "Justice of the Peace," which was recently reviewed in this journal, states that no machinery should be set up so as to prevent a wife from having access to a magistrate to ask for a summons. "No probation officer, magistrate's clerk or other person," he writes, "should ever be authorised to inform a wife, openly or by implication, that a summons will not be granted. This has, in fact, been done far too often." The problem is how to effect a wise compromise. On one hand it is wrong, the writer intimates, to set up so rigid a barrier as to shut out a wife from access to the relief which the law provides; on the other hand, it is a mistake to allow too ready an approach, because reconciliation is, in practice, found to be less probable once a case has reached the stage of a public appearance of the parties in court.

The Public Order Bill.

THE Public Order Bill, the main provisions of which were indicated in our last issue, was read the second time in the House of Commons last Monday. While it would clearly be out of place to attempt to give, even in the most summary form, an outline of the Home Secretary's speech commending the Bill to the House, brief reference may be made to some of the parts of it which treat of matters of legal significance. In regard to the general position it was urged that the House was being asked to deal with the situation in the characteristic British way, "not by giving power to the administration to make Orders in Council and all that sort of thing, but by laying down in statutory form, as a result of the co-operative work of the House of Commons, the rules which ought to apply, and then leave it—breaches of the law—to be dealt with by the courts." The interpretative functions of the courts were alluded to in connection with the absence of any definition of the word "uniform" in cl. 1. An attempt to introduce phrases in a definition clause describing what a uniform was would not, it was claimed, serve the effective purpose of the Bill. The Government were satisfied that for the fair working of the clause it was better to use a well-known English word, in the connotation in which it appeared, in order that the reasonable interpretation might be put on it by the tribunal that would have to decide—the law courts, in most cases the stipendiary magistrate. The constitutional significance of rendering a police permit for the wearing of political uniforms within the proviso to cl. 1 dependent on permission of the Secretary of State was explained. The exception was made to the general rule of the clause, and therefore it had been thought right that it should only be made with the consent of the Secretary of State, because if such exception was warranted it should be possible for the exception to be challenged in the House, and the Home Secretary brought to book. As to the provisions of cl. 2, which have given rise to some comment, Sir JOHN SIMON said that our law of evidence was so strict

that there were cases in which in order to secure a fair result they had to some extent to depart from its classic lines. If, he urged, they proceeded against an association and they were to be strictly confined to the evidence of what was said or done in the presence of the principal person sued, it might be that they would shut out from consideration by the court matters which any commonsense man would regard as relevant, though, of course, they were matters which it would be right for the accused to give his explanation about. The Home Secretary pointed to the origin of the clause relating to the use of threatening, abusive, or insulting words or behaviour in the Metropolitan Police Act, 1839, the provisions of which it was desired to extend to the provinces with, at the discretion of the magistrates, an increase of penalties for infringement, and he indicated how the application of the Public Meeting Act, 1908, has been seriously restricted through want of machinery, and how by means of the new Bill it was sought to remedy this defect.

The Law of Libel: New Bill.

It is of some interest to note that a Bill to amend the law of libel has recently been presented in the House of Commons by Mr. Samuel Storey, a former president of the Newspaper Society, with the support of Major Astor, Chairman of The Times Publishing Company, and Mr. W. W. Astor. The terms of the Bill, which are similar to that placed before the Empire Press Union Conference by Mr. Kenneth Henderson last June (80 Sol. J. 494), provide that no action for libel published after the passing of the Bill shall lie without proof of actual damage unless the words complained of (*a*) impute to any girl or woman unchastity or adultery, or (*b*) charge the plaintiff with having committed a criminal offence which is punishable corporally (the phrase includes imprisonment) or impute that the plaintiff has an obnoxious contagious disease, or (*c*) are published of the plaintiff in relation to his or her office, profession or trade: Provided always that unless the judge certifies to the contrary a plaintiff shall not in respect of any action brought under the first and third paragraphs recover more costs than damages. We do not propose, at any rate at this stage, to comment upon the desirability or otherwise of a change in the law in the direction or to the extent suggested, but we would refer our readers to the paper entitled "Problems of the Law of Defamation in Relation to the Press, Literary Work and Broadcasting," which was read at the Provincial Meeting of The Law Society at Nottingham last September by Mr. Kidore Kerman, a report of which appeared in our issue of 3rd October (80 Sol. J. 801).

Local Government Superannuation: Scope of Bill.

The importance of adequate provision being made for the superannuation of local government officers, from the point of view of solicitors who may contemplate the local government service as a field of activity, has more than once been alluded to in these columns. It may be noted in this connection that in answer to a recent question in the House of Commons asking whether the Minister of Health could indicate the scope of the proposed Bill to deal with the superannuation of local government officers, Mr. R. S. Hudson, Parliamentary Secretary, Ministry of Health, said that the Bill would be based generally on the recommendations of the Departmental Committee of 1927. The main object would be to secure that provision was made by all local authorities for the superannuation of their administrative, professional and clerical staff, in order to remove the bar to mobility to which the absence of a uniform superannuation system gave rise and which the committee unanimously regarded as unfavourable to the local government service. These considerations (the speaker continued) did not apply with the same force to other members of the staffs of local authorities, and it was proposed that the superannuation of those employees should remain a matter for the discretion of each local authority.

Recent Decisions.

In *Re F. J. Thomsett (An infant): Thomsett* v. *Thomsett* (p. 933 of this issue) an application by a wife, the respondent to an appeal under the Guardianship of Infants Act, 1925, that her husband should give security for her costs in his appeal from an order of justices who had given her sole custody of the child of the marriage, was dismissed. Reference was made to *L.* v. *L.*, 55 Sol. J. 330 (the only reported case not, like the present case, supported by evidence of the appellant's inability to pay the costs of the appeal), but decisions on divorce practice, based as they were on the ancient common law presumption that a wife had *prima facie* no means of her own to provide for her necessaries, were not, Crossman, J. held, applicable to the present case, as was shown by the cases of *Sirrell* v. *Sirrell* [1911] P. 38, and *Fletcher* v. *Fletcher* [1928] P. 20.

In *Lewis* v. *Odhams Press Ltd.* (*The Times*, 12th November), where the plaintiff claimed damages for alleged libel in an article in *John Bull* entitled "'Spirit' Fortune Telling—Outrageous New Ramp," it was held that there was no case to go to the jury. The matters dealt with in the article were matters of public interest, the matters of fact on which the comments purported to rest had, so far as the plaintiff was concerned, been correctly stated, and the defence of fair comment had been made out, there being no evidence of malice to go to the jury—see *McQuire* v. *Western Morning News Co.* [1903] 2 K.B. 100, 113.

In *Hollis Bros and Co. Ltd.* v. *White Sea Timber Trust Ltd.* (p. 934 of this issue) it was held that a typed clause in a contract for sale of parquet floor blocks which provided: "This contract is subject to sellers making necessary chartering arrangements for the expedition and sold subject to shipment; any goods not shipped to be cancelled," gave the sellers an option whether they would ship or not, and a claim for compensation for short delivery based on the provisions of one of the printed clauses in the contract was negatived. A meaning, it was intimated, could be given to the latter by making it apply in cases where the sellers did exercise their option to ship.

In *Wright* v. *Bassetts Ltd.* (p. 935 of this issue), the contract in question concerned the sale of all the slag in a slag heap and fixed a price per ton and a minimum annual payment, but it was provided that "if no slag for the manufacture of tarmac shall be available" the buyer's payments should cease. The defendants stopped working when, as the arbitrators found, the quantity of suitable slag was so small that further working was not practicable, and the court held that on that finding there was no slag "available" within the meaning of the contract.

In *Russell* v. *Criterion Film Productions, Ltd. and Another* (*The Times*, 17th November), the plaintiff was awarded damages against the first defendants for injuries to her eyes sustained while being filmed as one of the crowd in a ball-room scene. Lighting of the brilliancy of which the plaintiff complained was, it was held, at times, though not very frequently, used, and the first defendants were prepared to take the risk of temporary damage to the eyes of the performers in order to obtain a good picture. The plaintiff did not know that any such risk existed. The second defendant, who had been joined because the first defendants alleged that the control of the lighting was in his hands, was held not liable. Control was not, it was held, in fact in his hands.

In *Newcastle-upon-Tyne Corporation and Others* v. *Railway Assessment Authority and Others* (p. 931 of this issue), the House of Lords upheld decisions of the Railway Assessment Authority and the Railway and Canal Commission to the effect that the whole of a bridge consisting of two decks, of which the upper carried the railway and the lower was a roadway, was a railway hereditament within the meaning of s. 1 (3) of the Railways (Valuation for Rating) Act, 1930.

The New County Court Rules.

(*Continued from p. 905.*)

ENFORCEMENTS OF JUDGMENTS AND ORDERS.

An application for the oral examination of a judgment debtor as to his means may be made *ex parte* under the new rules (Ord. XXV, r. 2 (1), and Form 149). Under the old Ord. XXV, r. 13, it is made on notice and in accordance with the rules as to interlocutory applications. Personal service of the order must be made, and therefore must be in accordance with the new Ord. VIII, r. 2, without the aid of professional process servers.

In the case of applications for leave to issue process on change of parties after judgment and the other cases mentioned in the old Ord. XXV, r. 8, and the new Ord. XXV, r. 6, any action that may be ordered to be tried on such an application may, in spite of the new Ord. II, r. 1, be commenced in the court in which the order granting the application was made (Ord. XXV, r. 6).

Where a warrant, order of commitment or other order issued or received by the registrar for execution has not been executed within a month from the date of issue or receipt, the registrar will have to send notice to the execution creditor (Form 157) at the end of the first and every subsequent month during which the warrant or order remains unexecuted. The notice must set out the reasons for non-execution of the warrant or order. If the warrant or order was issued from another court, such notices will have to be sent also to the registrar of that court (Ord. XXV, r. 10 (2)). Under the old Ord. II, r. 33, it was left to the suitor or his solicitor to require such information from the high bailiff.

Three clear days' notice (Ord. XXV, r. 18 (2)), instead of two clear days as under the old Ord. XXV, r. 24 (2), must be given to an alleged partner when leave is sought to issue execution against any person as a partner other than the persons mentioned in the first paragraph of the rule in the case of a judgment or order against a firm.

In order to validate an arrangement between an execution creditor and an execution debtor that, in spite of a withdrawal by the registrar, he should be at liberty to re-enter, the execution creditor will have to file in the court office an authority (Form 165) signed by the execution debtor authorising the registrar to re-enter. The registrar will then have to mark the warrant as suspended by the request of the execution creditor, who may subsequently apply for the warrant to be re-issued (Ord. XXV, r. 25 (2)).

An appraisement will be capable of being made at the expiration of at least three days following the day of seizure (Ord. XXV, r. 27). The time under the old Ord. XXV, r. 30, was four days. The period of four clear days before the hearing was also provided in the old Ord. XXV, r. 35, for the notice of an application for an order that a sale under a warrant of execution may be made otherwise than by public auction; but no period is mentioned in the new Ord. XXV, r. 31, and therefore Ord. XIII, r. 1, will apply and the period of notice will be one clear day at least.

Judgment Summons.

In addition to filing a præcipe in Form 170 the applicant for a judgment summons must produce the plaint-note or originating process (Ord. XXV, r. 33).

An application for a judgment summons against one person only may be made under the new rules at the court for the district where the debtor resides or carries on business (Ord. XXV, r. 33 (2) (*a*)). There is no provision in the new rules for leave to be obtained for a judgment summons to issue out of a district, but where an application is made for the issue of a judgment summons against two or more persons jointly liable under a judgment or order it is provided that the judgment creditor must, at the time of filing the præcipe, if he wishes to issue the judgment summons against a debtor not residing or carrying on business within the district, either deposit a reasonable sum for the debtor's hotel and travelling expenses in the court office where service is to be by bailiff, or give an undertaking in writing to pay or tender these expenses to the debtor with the summons (Ord. XXV, r. 38).

A judgment summons will have to be served five clear days at least before the hearing (Ord. XXV, r. 40), but it will no longer be necessary to issue it at least ten clear days before the hearing as under the old Ord. XXV, r. 47 (1).

A successive judgment summons (issuable within three months of the date of the original judgment summons where the latter has not been served in due time) will be capable of being issued notwithstanding that the judgment debtor has ceased to reside or carry on business within the district since the issue of the original judgment summons (Ord. XXV, r. 41 (2)).

Where an order of commitment is made a note will have to be entered in the books of the court showing whether the order is made on the ground of the past or present ability of the debtor to obey the judgment or order (Ord. XXV, r. 45).

Evidence will be admissible by affidavit on behalf of a judgment creditor who does not reside or carry on business within the district of the court from which the judgment summons was issued (Ord. XXV, r. 46). The admissibility of such evidence depended on the discretion of the judge under the old Ord. XXV, r. 53. This privilege no longer extends to judgment debtors as under the old rules.

In order to issue an order of commitment the judgment creditor will have to file a special form of præcipe (Form 183) and produce the plaint-note or originating process (Ord. XXV, r. 56 (1)).

The old Ord. XXV, r. 75, that a judgment debtor who appears on the return day may get costs if the judgment creditor fails to appear, does not occur in the new rules.

Solicitor's Undertaking.

A solicitor's undertaking may be enforced in the county court under s. 25 (3) of the County Court (Amendment) Act, 1934. The old Ord. LIV, r. 7, provided for applications under this section to enforce the undertaking by attachment, and under the new Ord. XXV, r. 69, in addition to the right of application by a party to the proceedings, the judge may of his own motion direct the registrar to issue a notice in Form 197 directing the solicitor to attend at the court to show cause why an order should not be made for his attachment for failure to carry out his undertaking. Under the old rule solicitors were entitled to at least two clear days' notice of the application, but one clear day will be sufficient in accordance with the new Ord. XIII, r. 1. Personal service is again stipulated, and therefore firms of process servers are excluded from employment under this rule (Ord. VIII, r. 2). The relevant section as from 1st January, 1937, will be the County Courts Act, 1934, s. 183, which is identical with s. 25 (3) of the Amendment Act.

Postal Provisions.

There are no special provisions in the new rules for the issue of either a judgment summons or an order of commitment by letter (see old Ord. XXVI, rr. 46 and 68), but there is a new Ord. XXVI which enables a party to do by post any act which he may do by attendance at the county court office. He must send by prepaid post such documents as he would have been required to have produced at the court office, and a money or postal order for any court fees and money to be paid or tendered to a witness, and a stamped envelope addressed to himself. The rule does not apply to an application by a person residing or carrying on business within five miles of the court office for payment of money out of court, nor does it affect any duty of a party to be present before the judge or the registrar in court or in chambers.

Garnishee Proceedings.

Garnishee proceedings will under the new Ord. XXVII, r. 1, not only be available against present debts, but also against

debts accruing to the judgment debtor (*cf.* R.S.C.Ord. XLVI, r. 1). "Accruing" apparently means "not yet payable" (Ord. XXVII, r. 3).

Service of the garnishee summons on the garnishee must be personal, and therefore in accordance with Ord. VIII, r. 2, independent firms of process servers not being permitted employment for this purpose. It must be served fourteen clear days at least before the return day.

It will no longer be necessary for the judgment creditor to file an affidavit of service with the registrar, where service has been otherwise than by bailiff (see old Ord. XXVI, r. 4A), but the new Ord. XXVII, r. 6 (1), simply provides that the registrar must serve a copy of the garnisee summons on the judgment debtor, together with a notice in Form 207, after the garnishee summons has been served on the garnishee. Service on the judgment debtor must be at least six clear days before the return day, not five clear days as under the old Ord. XXVI, r. 4B (2).

The period of five clear days before the return day before which the garnishee may pay into court in order to save further costs is altered to "within eight days of the service of the summons on him inclusive of the day of service."

Under the old Ord. XXVI, r. 5 (4), and Ord. IX, r. 13, notice of acceptance had to be sent "within such reasonable time before the return day as the time of payment by the defendant has permitted." The new Ord. XXVII, r. 7 (3), provides that notice of acceptance of money paid into court in satisfaction of a claim against a garnishee must be delivered at the court office within three days of the receipt by him of the notice of payment into court.

The new rule for payment out of court of money paid in by the garnishee (Ord. XXVII, r. 8) provides that a judgment creditor who has accepted money paid into court may receive payment of the money from the court before the return day on production of the consent in writing of the garnishee and the judgment debtor. This is not possible under the old Ord. XXVI, r. 6.

The period of notice for an application under Ord. XXVII, r. 18, for payment to a judgment creditor of money standing to the credit of a judgment debtor in any county court will be at least one clear day (Ord. XIII, r. 1) instead of two days as required under the old Ord. XXVI, r. 16.

(*To be continued.*)

Company Law and Practice.

Perpetual Debentures.

DEBENTURES for the repayment of which no fixed date is specified are variously referred to as perpetual or irredeemable. Commonly, however, they are neither perpetual nor irredeemable in the strictest sense of those words, since the usual provision is that, on the happening of specified events, e.g., default in payment of interest or the liquidation of the company, the principal moneys will in fact become payable. Moreover, it is not unusual for the company to reserve the power to pay off such debentures on giving a certain length of notice; in such a case the use of the word "irredeemable" is clearly inapt. To cover all cases, therefore, of the somewhat loose use of the words "perpetual" and "irredeemable" in this connection one cannot really do more than describe perpetual or irredeemable debentures as debentures which may in fact continue for an unlimited period—debentures which the company is not bound to pay off on a certain date. The circumstances in which such debentures will be payable must depend, of course, on the particular provisions in each case, but the general description which I have attempted will I think still be applicable to any debenture which has any claim at all to be called perpetual.

Before statutory provision was made with reference to perpetual debentures certain doubts and difficulties as to their validity in the case of companies incorporated under the Companies Acts had arisen. In the first place the question might arise as to whether the issue of such a debenture was authorised by the memorandum of association of the company. Thus, in *In re The Southern Brazilian Rio Grande Do Sul Railway Company Limited* [1905] 2 Ch. 78, one of the objects of the company, as stated in its memorandum, was to borrow money by the issue of any mortgages, debentures, debenture stock, bonds or obligations. Buckley, J., held that this did not authorise the issue of debentures irredeemable in all circumstances since the result of such an issue was, in effect, to grant perpetual annuities, and this was not authorised by the company's memorandum. The borrowing powers of companies under modern forms of memorandum usually extend specifically to the issue of perpetual debentures, and, as we shall shortly see, statutory provision has been made for their validity.

A more extensive doubt affecting the validity of perpetual debentures was whether, if they were secured on the company's property, they did not offend the well-known rule of equity which invalidates any clog on the equity of redemption: inasmuch as they constituted an irredeemable mortgage, or at any rate a mortgage in which the period of redemption was postponed for an undue length of time. This doubt was expressed by Cozens-Hardy, L.J., in *Jarrah Timber & Wood Paving Corporation Limited* v. *Samuel* [1903] 2 Ch. 1, at p. 15, where he said that he could not see how, apart from statutory authority, there can be any right in a limited company to put itself in a better position than any other owner of property dealt with by way of mortgage. As against this, there was the view expressed by Lord Lindley in the same case in the House of Lords [1904] A.C. 323, at p. 330, that irredeemable debentures or debenture stock are not mortgages at all. Such doubt was, however, removed by the provisions of the Companies Act, 1907, and the relevant section is now s. 74 of the 1929 Act, which reads as follows:—

> "A condition contained in any debentures or in any deed for securing any debentures, whether issued or created before or after the commencement of this Act, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding."

By virtue of s. 380 of the Companies Act, 1929, debentures in this section will include debenture stock.

To-day, therefore, no objection can be raised to the issue of perpetual debentures or debenture stock on the ground simply that they are irredeemable or only redeemable in certain circumstances, which circumstances may not arise for a considerable number of years. In *In re Cuban Land and Development Company (1911) Ltd.* [1921] 2 Ch. 147, Lawrence, J., speaking of the debenture stock which he was considering, said: "The . . . debenture stock is what is commonly known as perpetual debenture stock, that is to say no day is specified for the repayment of the principal moneys secured. The stockholders only become entitled to repayment if an order is made or an effective resolution is passed for the winding up of the Company (otherwise than for the purpose of reconstruction), or if the company commits a breach of any of the conditions upon which the stock is issued, and the company cannot redeem the stock without going into liquidation. The doubt which formerly existed as to the validity of debenture stock of this nature was removed by s. 14 of the Companies Act, 1907, which is reproduced in a slightly altered form in [s. 74 of the Companies Act, 1929]." Of course the reference in these remarks to the circumstances in which holders of perpetual debentures or debenture stock become entitled to repayment is not of universal application because, as we have seen, the events in which repayment can be claimed depend on the conditions in the particular case; and equally the company

may be able to redeem, if it reserves the right, without going into liquidation.

It should be observed that s. 74 of the 1929 Act does not remove debentures and debenture stock outside the equitable rule against clogging the equity altogether; it merely provides that they are not to be invalid by reason only of the length of time for which they continue to be irredeemable. Consequently a provision in a debenture or trust deed which amounts to a clog or fetter on the power of the company to redeem the property comprised in the security will be void just as in the case of a mortgage by an individual, apart from the exception provided by s. 74. Thus, in *in re Rainbow Syndicate Ltd.* [1916] W.N. 178, the company had issued debentures carrying interest at the rate of 10 per cent., and also entitling the holders to a share of the profits of the company until they had each received a bonus of 100 per cent.: the right to share in the profits could operate after the principal and interest had been paid off, and the company's property was charged with the payment not only of the principal and interest but also of the share of profits. Petersen, J., said that there was in effect an agreement that the company would for an unlimited time pay a proportion of profits till the bonus was paid, and though the principal had been paid off the security remained charged; this was a restriction on the right of redemption and imposed a fetter on the equity after the principal was paid. As such it was bad as a clog upon the equity of redemption.

It is interesting to note, however, that diverse views have been expressed as to the applicability of the rule against clogging the equity to the cases where the charge given by the debenture is a floating charge only. In *De Beers Consolidated Mines Limited* v. *British South Africa Company* [1912] A.C. 52, Lord Atkinson, Lord Halsbury and Lord Gorell doubted whether the rule was applicable to such a case. Lord Atkinson quoted from the judgment of Buckley, L.J., in *Evans* v. *Rural Granite Quarries Limited* [1910] 2 K.B. 979, to describe the nature of a floating charge. "A floating security is not a future security; it is a present security which presently affects the assets of the company expressed to be included in it. On the other hand, it is not a specific security: the holder cannot affirm that the assets are specifically mortgaged to him. The assets are mortgaged in such a way that the mortgagor can deal with them without the concurrence of the mortgagee. A floating security is not a specific mortgage of the assets, plus a licence to the mortgagor to dispose of them in the course of his business, but is a floating mortgage applying to every item comprised in the security, but not specifically affecting any item until some event occurs or some act on the part of the mortgagee is done which causes it to crystallize into a fixed security." Lord Atkinson then went on to say this: "In the present case the charge never so crystallized, and it would appear to me that such statements of the law as these, that 'on repayment of all that is properly payable on the security of the property charged, the whole of that property must be restored to the borrower unfettered and undiminished by anything created in favour of the lender as part of the consideration for the loan'; that 'the corollary applies to all cases where there is a right to redeem, and is incident to or part of that right'; that 'the sole question is, is there a right to redeem,' however applicable to ordinary mortgages of land or chattels, are scarcely applicable to the case where the mortgagee never had possession, actual or constructive, of any of the property, never had any estate in it vested in him, or any specific charge upon it created in his favour."

On the other hand, in the well-known case of *Kreglinger* v. *New Patagonia Meat and Cold Storage Company Limited* [1914] A.C. 25, Lord Haldane expressed the view that: "A floating charge is not the less a pledge because of its floating character, and a contract which fetters the right to redeem on which equity insists as regards all contracts of loan and security ought on principle to be set aside as readily in the case of a floating security as in every other case." It is noteworthy that Lord Halsbury and Lord Atkinson concurred in Lord Haldane's judgment; and the text books generally adopt Lord Haldane's view that the equitable doctrine against clogging the equity applies to a floating charge as much as to any other security.

A Conveyancer's Diary.

The Use of Statutory Declarations.

THE recent case of *Re Spollon and Long's Contract* [1936] 1 Ch. 713, is of interest to conveyancers as showing the extent to which statutory declarations alleged to prove facts arising upon an abstract can be forced upon a purchaser.

Of course there are many cases where a statutory declaration proving facts as shown in the abstract is by the terms of the contract to be accepted, but I am dealing with an open contract where there is no such special provision.

There can be no doubt that statutory declarations are very useful, and as we all know, are constantly accepted in practice even in cases where they might strictly be rejected. In this connection it must be remembered that statutory declarations as to facts which are twenty years old fall within s. 45 (6) of the L.P.A., 1925, and are, in the absence of evidence to the contrary, sufficient evidence of the facts stated therein.

At the same time it seems that there is a distinction to be drawn between a statutory declaration which goes only to the proof of facts and one which is intended to be proof of documents, which, although abstracted, cannot be produced.

Perhaps I had better deal with the facts in *Re Spollon and Long's Contract* first and return to the general principles afterwards.

In that case it appeared that there was an open contract to sell certain leasehold property. The abstract showed an assignment made in consideration of the purchase price of £75 12s. 6d. which was stamped with 2s. 6d. only. An objection was taken on behalf of the purchaser that the assignment was insufficiently stamped. The reply to that was that the purchase price in the deed when it was executed was £22 12s. 6d., and that after execution that had been altered to £75 12s. 6d., but no explanation was offered as to when, by whom, or for what reason that had been done. Inquiry was made of the solicitor who acted for the assignors in the matter of the assignment in which the alteration was made. His reply was: "The deed was evidently engrossed by the law stationer and no material alteration was made in it except (if I remember rightly) that a superfluous word was struck out and initialled by me. It is, I think, obvious that if I initialled a minor alteration of this kind, *a fortiori*, I should have initialled a very material alteration in the amount of the purchase money." The solicitor in question was willing to make a statutory declaration in the terms of his letter, but the solicitor for the vendor demanded that the costs of it should be paid by the purchaser, and to that the purchaser's solicitor refused to comply.

The result was a vendor and purchaser summons by the vendor for a declaration, first that the requisitions and objections of the purchaser had been sufficiently answered and secondly for a declaration that a good title had been shown in accordance with the contract, and for costs.

Luxmoore, J., held that the purchaser could not be compelled to accept the declaration offered. His lordship, after stating the facts, said: "The first question to be determined is whether the purchaser could be compelled in any circumstances to accept a statutory declaration at all in a case where the vendor on an open contract was seeking to contradict the facts as they appear *primâ facie* from the title which he

had deduced in his abstract . . . In my judgment, on an open contract, it is not open to a vendor to insist on a purchaser accepting a statutory declaration or other evidence which is put forward for the purpose of contradicting something which would *primâ facie* appear to be the state of facts existing from the abstract itself."

His lordship then went on to discuss what I may call the general principle regarding statutory declarations offered in support of the title, and referred especially to the decision of the Court of Appeal in *Re Halifax Commercial Banking Co., Ltd.* v. *Wood* (1899), 79 L.T.R. 536, in which it was held that the mere fact that title deeds had been lost or mislaid does not release a purchaser from the performance of his contract, but he can be compelled to complete if he is furnished in proper time with satisfactory evidence as to the contents of the lost documents and as to their having been duly executed and properly stamped. It will be noticed that evidence, not only of the contents of the lost documents, but also of the due execution thereof, is required. There is, therefore, this difference to be drawn between evidence as to facts and evidence as to documents. Regarding the latter, it may well be that a purchaser under an open contract may be bound to accept a statutory declaration, provided that it satisfactorily accounts for the loss (e.g., by destruction by fire) of the documents, and proves the contents (e.g., by the production of a completed draft in the hands of the solicitor who was concerned in the transaction) and also the due execution thereof. But where it is sought to establish facts which are contrary to those stated in the abstract, a purchaser under an open contract is not obliged to accept a statutory declaration which is intended to deny the facts as they appear on the face of the abstracted documents.

It is obvious that in the instant case the purchaser was bound to assume that the alteration in the amount of the purchase price in the assignment in question was made before execution. That is an inference of law always to be drawn in the case of a deed. In the absence of agreement, a purchaser cannot be compelled to accept evidence to contradict or refute that inference.

It may be that a purchaser under an open contract would have to accept a statutory declaration supporting (not contradicting) statements in the abstract, such, for example, that a person died without leaving issue or other statements of a negative character, but not to contravene what appears from the abstracted documents to be the fact.

Every case must, of course, stand upon its merits. Generally speaking, however, it may be said that a purchaser under an open contract would be bound to accept a statutory declaration in support of a negative statement in the abstract, but not in order to establish the incorrectness of any positive statement or fact appearing in it.

Landlord and Tenant Notebook.

Improvements as Waste.

The L.T.A., 1927, s. 19 (2), introduced a new restriction on contractual rights which has led to a certain amount of difficulty already. The subsection enacts that "in all leases . . . containing a covenant etc. against the making of improvements without licence or consent, such covenant etc. shall be deemed . . . to be subject to a proviso that such licence or consent is not to be unreasonably withheld," and goes on to provide that the landlord may stipulate for payment of a reasonable sum for damage done to or diminution of value occasioned to the premises, and, when reasonable, for reinstatement at the end of the term.

It is not to be supposed that the draftsmen thought that any lease contained a "covenant against the making of improvements" so expressed. This difficulty was adverted to in *Lilley & Skinner Ltd.* v. *Crump* (1929), 73 Sol. J. 366.

The next question which arose, whether "improvement" was to be regarded from the viewpoint of the tenant or that of the landlord, was decided (having regard to the reinstatement provision above referred to) in the tenant's favour by *Balls Bros.* v. *Sinclair* [1931] 2 Ch. 325. More recently, the question "what is an improvement" again came before the courts in *F. W. Woolworth & Co. Ltd.* v. *Lambert* (1936), 80 Sol. J. 186 (see Vol. 80, p. 199); and 80 Sol. J. 703, C.A., in which it was laid down at first instance that the nature of the premises must be taken into account as well as the tenant's financial interests, but in which a majority in the Court of Appeal held that the removal of a party wall, making a demised shop part of a shop, would be within the meaning of the term.

These difficulties may have been foreseen by those who framed the sub-section, who may well have considered that no amount or form of wording would have prevented them. But what has, I think, been overlooked is the possibility of a landlord taking action on the basis that the making of an improvement is not only a breach of some covenant, etc., but a wrong independent of contract. In other words, a tort; the particular tort being waste.

One can visualise the position as follows. First move by tenant: application for licence ("L.T.A. gambit"). Countermove, refusal by landlord. Tenant then alleges that refusal is unreasonable. Landlord replies that it may be so. Tenant threatens checkmate in reliance on statutory proviso. Landlord answers that his rights as reversioner in the matter of waste are not thereby affected.

There is ample authority for some of the propositions necessary to support the landlord's contentions. That waste is a tort was definitely decided by *Defries* v. *Milne* [1913] 1 Ch. 98, C.A. A landlord's right to choose his remedy when the same act constitutes a breach of contract and waste was established in *Marker* v. *Kenrick* (1853), 13 C.B. 188. Further, injunctions will issue to restrain not only waste committed (*Pratt* v. *Brett* (1817), 2 Madd. 62) but also waste threatened (*Hunt* v. *Browne* (1837), Sau. & Sc. 174).

So the position will depend on whether an improvement does or can constitute waste. This is a point on which the law is less clear than it might be. Of the numerous authorities, I will select those which up to the present have been accorded the most respect.

The earliest case is one which has been referred to as the *Abbot of Stratford's Case* (1497), Keil. 36A. The abbot complained that a tenant had pulled down a wall dividing two rooms (which was one of the things the plaintiffs in *F. W. Woolworth & Co. Ltd.* v. *Lambert*, *supra*, wished to do). The main issue was as to an alleged licence and its interpretation, but two passages affecting the question of waste have been cited in later cases. One was to the effect that if a tenant enlarged a house, it was waste, because it added to the cost of upkeep, replacing a house by one of similar size and quality would not be waste. But if he built a house "*ou nul fait devant*" it was not waste (the landlord might pull it down). In Rolls' "Abridgement," Vol. 2, p. 815, the former proposition is repeated, the latter queried. Co. Litt. I, 53 (*f*) however, declares "if the tenant build a new house, it is waste."

The position was developed a little by *Darcy* (*Lord*) v. *Askwith* (1618), Hob. 234. For here distinction was made between acts and omissions which "better a thing *in the same kind*" and those which "change the nature of the thing demised." The former would not, the latter would, be waste; but "the nature of the thing" was very narrowly interpreted, for it was said to include changing meadow into arable land as well as a wood into pasture.

By the beginning of the nineteenth century this distinction seems to have been lost sight of. In *Queen's College, Oxford* v. *Hallett* (1811), 14 Ea. 489, Lord Ellenborough and three colleagues held that the erection of fences sub-dividing demised land, as well as the ploughing up of pasture, was waste; and approval was expressed of a judgment of Lord Mansfield to

the effect that the building of a wall where none was before would entitle the reversioner to proceed though the wall could be pulled down before the term expired.

The next authority of importance, *Doe d. Grubb* v. *Burlington* (*Earl of*) (1833), 5 B. & Ad. 507 (an action against a copyholder for pulling down a barn), gave us a proposition, formulated by Lord Denman. After considering the conflict, his lordship said that " on the whole " there was no authority for saying that an act could be waste unless it either diminished the value of the (reversionary) estate, or increased the burden thereon, or impaired the evidence of title. It is with the increase of burden that parties affected by L.T.A., 1927, s. 19 (2), are most concerned in this connection.

Some twenty years later it looked as if the position of landlords in the matter of waste was all that the most ambitious members of that class could possibly desire. The judgment in *Smyth* v. *Carter* (1853), 18 Beav. 78, contains such phrases as " this court will restrain a tenant from pulling down a house and building any other which the landlord dislikes. It is not sufficient to show that the house proposed to be built is a better one " and " the landlord has a right to exercise his own judgment *and caprice*, whether there shall be *any change*."

That the above case concerned copyhold does not matter for present purposes. What does matter is that those who have quoted and confidently relied on the phrases mentioned have disregarded the circumstance that what was complained of was the threat to demolish a dilapidated old public-house and erect a modern brewery on the site.

At all events, after that the tide may be said to have turned. In *Jones* v. *Chappell* (1875), L.R. 20 Eq. 539, the erection of a house on vacant land was held not to be waste as it neither diminished value nor impaired identity. Nothing was said about increasing burden, but *Queen's College, Oxford* v. *Hallett* and other authorities, including *Co. Litt.*, were definitely discounted and held not to be good law. The weakness of this authority, however, lies in the fact that a tenant was suing another tenant of the same landlord, the substantial cause of action being nuisance occasioned by building operations, and it is difficult to see how waste can have been introduced into the action at all.

Then in *Doherty* v. *Allman* (1878), 3 A.C. 709, a considerable onslaught on the position of landlords was made by the House of Lords; but when using this authority it must be borne in mind that what was in issue was the question of an injunction to restrain a tenant holding under a 999-year lease, most of which was unexpired.

The most recent relevant authority is *West Ham Central Charity Board* v. *East London Waterworks Co.* [1900] 1 Ch. 624. The facts were that the defendants held under a ninety-nine-year lease, to expire in 1929, granted for the purpose of constructing a reservoir. That purpose had never been carried into effect; instead, the grantee had let the land to a contractor to be used as a rubbish shoot. Evidence showed that the level of the land was raised; that its probable value in 1929 would be that of building land for factories; that, though the presence of the rubbish would mean more excavation, the increased cost would be more than compensated by the increased value. What decided the issue in the landlords' favour was the fact that the land was put to a different use. There was an alteration in the nature of the thing demised.

The net result appears to be that the omission from L.T.A., 1927, s. 19 (2), of all reference to the tort of waste may be found to constitute a loophole. For even the last-mentioned authority does not imply that an improvement in the same kind can never be waste. If the " caprice " proposition of *Smyth* v. *Carter* be too wide, it still seems to be law (*Doe d. Grubb* v. *Burlington*) that an improvement which would increase the burden—would, from the landlord's viewpoint, as it were over-capitalise his undertaking—could be dealt with by invoking the law of torts.

Our County Court Letter.

VALIDITY OF DEMOLITION ORDER.

In a recent case at Walsall County Court (*Tibbitts* v. *Wednesbury Corporation*) appeals were heard against demolition orders in respect of ten houses, Nos. 8–17, Hope Terrace, Wednesbury. A preliminary objection was taken that the appeal was out of time, as notice of the demolition order was served on the 8th April, and any notice of intention to make an offer (to do certain work) should have been given within twenty-one days, as laid down by the Housing Act, 1930, s. 19 (1). In fact, the notice from the appellant was not given until the 5th May. It was pointed out, for the appellant, that the proposals were nevertheless considered by the Public Health Committee on the 20th May, when nothing was said about their being out of time. The objection was overruled, but a further objection was taken that the appellant's name was Edith Tibbitts, whereas some of the rent books gave the name of the landlord as John Tibbitts, who had been the defendant in previous proceedings before the magistrates in respect of a nuisance. The appellant's explanation was that the deeds were in her name, but her father managed the property for her. It was held that the proceedings were in proper form, and the evidence in support of the demolition order was that the property was at the bottom of an unmade, unadopted street, and was in very bad condition. It was only worth £200, but the cost of making it fit for habitation would be £1,150—an unreasonable amount. The buildings were erected in 1839, and the bricks and woodwork had decayed. Eight houses were let at 6s. a week and two at 6s. 6d., but the medical officer of health stated that they were structurally deficient and damp. The appellant's case was that the houses were bought in 1911 for £800, and an architect and surveyor gave evidence that they could be put into reasonable repair for £600. After a view, His Honour Judge Tebbs upheld the order. The appeal was therefore dismissed, with costs.

LIABILITY FOR DAMAGE BY FIRE.

In the recent case of *Keighley* v. *Vickers*, at Lancaster County Court, the claim was for £3 6s. 11d. as damages for negligence, viz., permitting a fire to spread from the defendant's premises, whereby the walls of the plaintiff's garage and refuse pit were damaged. The counter-claim was for damages for loss of business, due to obstruction caused by the plaintiff's workmen in clearing burning refuse from the pit. The plaintiff's case was that his refuse pit and that of the defendant were separated by a dividing wall. On the 2nd July he found that an accumulation of rubbish (including chemicals and old films) was on fire in the pit of the defendant's workshop. The fire was put out, but the mortar between the bricks of the plaintiff's garage was burnt away and the bricks became detached, as the wall was red-hot. The defendant had failed to repair the damage, and the plaintiff employed a builder for that purpose, but he was denied access to the defendant's premises, and the repairs were only partly done. The defence was that there was no blazing fire, as alleged, but only some old rags smouldering, as the rubbish had been damped by rain. The wall was not damaged by the fire, and the bricks were only loosened by the workmen sitting on them, as repairs had been needed for some time. The dust raised by the plaintiff's workmen had entered the defendant's photographic laboratory and had interfered with his output of " walking pictures " taken on the promenade. His Honour Judge Peel, K.C., gave judgment for the plaintiff for £2 in respect of damage from the fire. Judgment was given for the defendant on the counter-claim for £2 as damages for obstruction, during the clearing of the pit. Claims by the plaintiff for an injunction against obstruction of a right of way to a yard, and for damage to a motor cycle, were dismissed. It is to be noted that liability for the spread of a fire by negligence was established in *Turberville* v. *Stampe* (1697), 1 Lord Raymond 264, a decision of Chief Justice Holt.

To-day and Yesterday.

16 November.—To vaccinate or not to vaccinate was a question about which people got extremely excited in the 'seventies, and on the 16th November, 1876, a battle on the subject between the Local Government Board and seven of the Guardians of the Keighley Union reached its climax, when the obstinate seven were brought into the Queen's Bench Division charged with contempt in disobeying an order directing them to enforce the law. The Lord Chief Justice plainly told them: "We cannot listen to the notions of individuals that they are acting according to their consciences in disobeying the law of the land." Finally, the objecting guardians yielded.

17 November.—In 1772, Serjeant Eyre, the Recorder of London, was promoted a Baron of the Exchequer. Serjeant Glynn, a great lawyer and a great popular politician, was elected to succeed him. In the Court of Aldermen every alderman was present and the voting was extraordinarily close. Serjeant Glynn, 13; Mr. Bearcroft, K.C., 12; Mr. Hyde, senior City Counsel, 1. The salary of the post was at this time raised from £600 to £1,000 a year.

18 November.—While the legal world in London was watching this contest with interest, no one was paying any attention to an entertaining little drama that was being played in Newcastle-upon-Tyne. On the night of the 18th November, 1772, Elizabeth, the beautiful young daughter of Aubone Surtees, a wealthy banker of that city, climbed down a ladder from an upper window of her father's house into the arms of a young student of twenty-one named Jack Scott. In defiance of their parents' bans, the romantic couple fled across the Border and were married in Scotland. Thirty years later, Jack Scott was Lord Chancellor.

19 November.—On the 19th November, 1777, the Rev. John Horne Tooke appeared in the Court of King's Bench before Lord Mansfield to argue several points of law which he had raised in connection with his trial for libel. He had published in a newspaper a resolution for the raising of money to support the widows and orphans of "our beloved American fellow subjects" who were "barbarously murdered by the King's troops" in the skirmish at Lexington. His "conduct was cool, sensible and manly. His arguments were well delivered and he did not . . . use any asperity or unbecoming warmth." Nevertheless, he was sentenced to fine and imprisonment.

20 November.—On the 20th November, 1877, a dramatic trial which had lasted almost a month at the Old Bailey came to an end when a solicitor and three of the leading members of the Metropolitan detective force stood convicted of conspiring with a gang of swindlers to defraud the public and to prevent the disclosure of their trickery. Mr. Baron Pollock passed on them all the maximum sentence, two years, hard labour, remarking at the same time on its inadequacy. The convicted solicitor cried out: "My God! My lord, do lessen my sentence."

21 November.—On the 21st November, 1849, a curious point came before the Court of Exchequer when the Duke of Bedford, as lord of the manor of Kilby, claiming fourpence for every "way" of coals wrought in the manor, sought to put in evidence a survey of 1650, made at the instance of Oliver Cromwell, then Generalissimo of the Forces, but not yet Protector. The court held that it was not receivable as a public document like an instrument issued by a lawful Sovereign, but decided in favour of the Duke on other grounds.

22 November.—On the 22nd November, 1875, the trial of Henry Wainwright, the murderer, opened at the Old Bailey before Lord Chief Justice Cockburn.

The Week's Personality.

In Whitechapel, where he carried on a prosperous business as a manufacturer of mats and brushes, and in Bow, where he had a comely young wife and four attractive children, handsome, genial young Henry Wainwright was popular and respected. He was a little over thirty, with dark curly hair and a neatly trimmed beard and moustache, and in the theatres, music halls and bars of the local world of pleasure, his top hat, his big cigar and his zest for life made him conspicuous. The minister of the chapel where he had worshipped for eighteen years spoke well of him and among more worldly friends he was known as a good fellow with a taste for the glass and an eye for the fair. To his other characteristics he added a distinct literary talent. Meanwhile, he was leading a double life. When his business was at its brightest, he set up a second establishment with a pretty young dressmaker, who bore him two children, but financial difficulties overtook him and, threatened disclosure menacing his respectability, he shot her in his warehouse and buried her under the boards. For a whole year the body remained hidden, but a series of blunders disclosed his crime on the precise anniversary of the murder and brought him to the gallows.

The Prophetic Gift.

Prophecy was much to the fore when a woman spiritualist figured as plaintiff in a recent libel action in the King's Bench Division. She "did not deny that she could predict the future," and the defendants' leading counsel, following the precedent of the late Lord Darling on a similar occasion, asked if she could foretell the verdict of the jury in the case. "I know what it will be," she replied, "but is not this case still *sub judice*?" The answer recalls that of a lady many years ago who brought an action for damages for negligence against a well-known firm of solicitors, conducting her own case with great ability. When she went into the witness-box one of the leaders on the other side rose to cross-examine her and opened fire with the question: "Tell me, madam, do you expect to win this case?" "No," she replied, glancing at the formidable array of forensic talent collected by the defendants, "but I *hope* to." And she did.

Judicial Connoisseurs.

The recent sale of the late Lord Darling's pictures at Christie's realised poor prices. Some were as low as half a guinea, and a supposed Rubens went for ten guineas. Such sales are often disappointing. Less than two years after the death of the great O'Connell, Ireland's most tremendous advocate, he whose voice could once move the Irish nation as one man, the sale of his library realised nothing beyond the intrinsic value of the books, even those containing his autograph. Actual disaster attended the sale of the pictures of Lord Eldin, the Scots judge, in 1833. All fashionable Edinburgh crowded to the dispersal of his famous collection, and just as sixty guineas had been bid for a Teniers the floor collapsed precipitating a hundred ladies and gentlemen into the room below. The sale of Mr. Justice Day's collection of pictures was an event of first-rate importance in 1909, and in two days over £94,000 was realised. Millet's "Goose Maiden" fetched 5,000 guineas, Corot's "Ferry" 2,800 guineas, and Harpignies' "Solitude" 1,800 guineas.

The Minister of Health having intimated his approval of the resolution of the Common Council to prepare a town planning scheme for the City of London, the powers of the Corporation relating to such proceedings as it may be necessary to take under the Town and Country Planning (General Interim Development) Order, 1933, are to be delegated to the Improvements Committee with instructions to report to the Common Council from time to time.

Obituary.

SIR HOMEWOOD CRAWFORD.

Sir Homewood Crawford, for nearly forty years solicitor to the City Corporation, died in a London nursing home on Tuesday, 17th November, at the age of eighty-six. He was admitted a solicitor in 1872, and practised at Cannon Street, E.C. He served as Under-Sheriff of London and Middlesex from 1875 to 1880, and again in 1884 and 1885. In 1885 he was elected City Solicitor. He was the first Master of the City of London Solicitors' Company, and he was also a member of the Council of The Law Society for fifteen years. He was a past president of the National Association of Local Government Officers. He received the honour of knighthood in 1900, and was created a C.V.O. in 1924. Sir Homewood retired from the post of City Solicitor in June, 1924.

MR. J. WYLIE.

Mr. John Wylie, Barrister-at-Law, of Birmingham and Garden Court, Temple, died at his home at Four Oaks, Birmingham, on Friday, 6th November, at the age of seventy-two. Mr. Wylie was called to the Bar by the Middle Temple in 1908 and went the Oxford Circuit. He was appointed Recorder of Smethwick in 1932.

MR. T. COTCHING.

Mr. Thomas Cotching, solicitor, head of the firm of Messrs. Cotching & Son, of Horsham, died at Worthing on Tuesday, 10th November, at the age of fifty-nine. Mr. Cotching, who was admitted a solicitor in 1901, was Registrar and High Bailiff of Horsham County Court and also of Petworth County Court.

MR. G. M. DAVEY.

Mr. George Middleton Davey, solicitor, of Essex Street, W.C., died in London on Thursday, 12th November, at the age of seventy-two. Mr. Davey was admitted a solicitor in 1888.

MR. T. W. WALTHALL.

Mr. Thomas William Walthall, solicitor, of Birmingham and Stourport, died in a nursing home at Birmingham on Sunday, 8th November. Mr. Walthall, who was admitted a solicitor in 1891, was senior partner in the firm of Messrs. Walthall & Pritchard, of Birmingham. He was a member of the Birmingham City Council for fifteen years, and in 1926 he was elected a member of the Stourport Urban District Council.

MR. T. WATSON.

Mr. Thomas Watson, solicitor, of Middlesbrough, died on Monday, 9th November, at the age of seventy-six. Mr. Watson was admitted a solicitor in 1888.

Reviews.

Justice of the Peace. By LEO PAGE, of the Inner Temple and South-Eastern Circuit, Barrister-at-Law. 1936. Demy 8vo. pp. (with Index) 315. London: Faber and Faber, Limited. 8s. 6d. net.

This work is not primarily addressed to the legal profession. Its objects, following a general survey of the present administration of the law by justices and an examination of the existing situation with regard to their method of appointment and their qualifications, are to provide a simple outline of criminal law and practice which may be of assistance to justices, and to make proposals designed to lead ultimately to increased efficiency in the work of magisterial courts. Successive chapters deal with practice and procedure, the hearing in court, the law of evidence, the treatment of offenders, probation, the juvenile court, affiliation proceedings, licensing, matrimonial jurisdiction, the duties of chairmen, prisons, etc., while those relating to the new magistrate and to problems and suggestions will be read with much interest and, it may be added, profit. The author is to be congratulated upon the manner in which he has surmounted the obstacles to clear writing inherent in his subject-matter, and in producing in face of them an admirable and readable book.

Books Received.

"*Dear Sir, Unless . . .*" By NATHANIEL GUBBINS. Illustrated by WILLIAM M. HENDY. 1936. Crown 8vo. pp. vii and 96. London: George Routledge & Sons, Ltd. 5s. net.

The Housing Act, 1936. By The Hon. DOUGALL MESTON, of Lincoln's Inn, Barrister-at-Law. 1936. Royal 8vo. pp. lii and (with Index) 229. London: Sweet & Maxwell, Ltd.: Stevens & Sons, Ltd. £1 1s. net.

Guide to the Legal Examinations of the London Chamber of Commerce and the Royal Society of Arts for Unarticled Clerks. By J. N. RUSHTON, Solicitor of the Supreme Court. 1936. Demy 8vo. pp. iv and 95. London: Sweet & Maxwell, Ltd. 3s. 6d. net.

Questions and Answers on Torts. By C. S. PADLEY, of the Inner Temple, Barrister-at-Law. 1936. Demy 8vo. pp. iv and 108. London: Sweet & Maxwell, Ltd. 5s. net.

Questions and Answers on Criminal Law. By P. H. THOROLD ROGERS, of the Middle Temple, Barrister-at-Law. 1936. Demy 8vo. pp. iv and 99. London: Sweet & Maxwell, Ltd. 5s. net.

Glen's Public Health Act, 1936, being the Fifteenth Edition of Glen's Public Health. Edited by E. BRIGHT ASHFORD, B.A., of the Middle Temple, Barrister-at-Law, with the assistance of NORMAN P. GREIG, B.A., of the Inner Temple, Barrister-at-Law, and W. R. HORNBY STEER, M.A., LL.B., of the Inner Temple, Barrister-at-Law, Recorder of South Molton, and Sir LYNDEN MACASSEY, K.B.E., LL.D., one of His Majesty's Counsel, as Consultant Editor. 1936. Royal 8vo. pp. xxxviii and (with Index) 685. London: Eyre & Spottiswoode (Publishers), Ltd. 45s. net.

The Dryads and other Tales. By FRANK WHITE. Illustrations by A. M. CORAK. 1936. Demy 8vo. pp. xi and 305. London: Frederick Warne & Co., Ltd. 3s. 6d. net.

Commercial Arbitration under British Law (England and Wales, Scotland, and Northern Ireland). By J. E. JAMES, LL.B. London and Paris: The International Chamber of Commerce. 9d. post free.

The Parliament-House Book for 1936-37. One hundred and twelfth publication. 1936. Crown 8vo. Edinburgh: W. Green & Son, Ltd. 21s. net.

"*Antigua, Penny, Puce.*" By ROBERT GRAVES. 1936. Crown 8vo. pp. vii and 311. London: Constable and Company, Ltd. 7s. 6d. net.

The Law of Evidence. By W. NEMBHARD HIBBERT, LL.D. (Lond.), of the Middle Temple, Barrister-at-Law. Seventh Edition. 1936. Demy 8vo. pp. xvi and (with Index) 124. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

The Yearly Supreme Court Practice, 1937. By P. R. SIMNER, C.B., a Master of the Supreme Court of Judicature, HAROLD G. MEYER, of the Inner Temple, Barrister-at-Law, H. HINTON, M.B.E., of the Supreme Court, and F. C. ALLAWAY, M.B.E., of the Chancery Division. Demy 8vo. pp. ccccIxxv and 2666 (Index 429). London: Butterworth and Co. (Publishers) Ltd. 45s. net.

The Agricultural Landowner's Handbook on Taxation. Fifth Edition. 1936. By R. STRACHAN GARDINER, F.S.I., F.L.A.S. Crown 8vo. pp. (with Index) 251. London: Central Landowners' Association. 6s. net.

Notes of Cases.

House of Lords.

Newcastle-upon-Tyne Corporation and Others *v.* Railway Assessment Authority and Others.

Lord Blanesburgh, Lord Russell of Killowen and Lord Maugham.
13th, 16th and 17th November, 1936.

RATING—RAILWAY BRIDGE HAVING A LOWER DECK CARRYING A ROADWAY—WHETHER ROADWAY A RAILWAY HEREDITAMENT—"SUBSIDIARY OR ANCILLARY UNDERTAKING" OF THE RAILWAY COMPANY—RAILWAYS (VALUATION FOR RATING) ACT, 1930 (20 & 21 Geo. 5, c. 24), s. 1 (3).

Appeal by the corporations of Newcastle-upon-Tyne and Gateshead against an order of the Railway and Canal Commission, dated 15th October, 1935, dismissing an appeal by the present appellants against a decision of the Railway Assessment Authority.

The high-level bridge carrying the London and North Eastern Railway over the River Tyne between Gateshead and Newcastle was constructed by the predecessors in title of the respondents, the London and North Eastern Railway Company, in pursuance of the Newcastle-upon-Tyne and Berwick Railway Act, 1845. The bridge consists of two decks, the upper carrying the railway, and the lower consisting of a roadway which the public are permitted to use on payment of tolls. The Railway Assessment Authority held that the bridge consisted of two separate hereditaments, and that both were railway hereditaments and were rateable on that basis. The appellants contended that the roadway ought not to be treated as, or as part of, a railway hereditament, but that it should be rated in the same way as if it were not owned by a railway company. By s. 1 (3) of the Railways (Valuation for Rating) Act, 1930: "Undertaking" in relation to a railway company includes in addition to the principal undertaking of the company . . . (*b*) any subsidiary or ancillary undertaking carried on by the company not being a road-transport, sea-transport, or air-transport undertaking . . . "Railway hereditament" means, subject as hereinafter provided, any hereditament occupied for the purposes of the undertaking of a railway company . . ." The Railway and Canal Commission held that the whole bridge was part of the railway company's statutory undertaking, that the expression "railway hereditament" included any premises occupied for the purpose of the undertaking, and therefore that both parts of the bridge were rightly rated as railway hereditaments.

LORD BLANESBURGH said that it would be useful to note the sense in which the words "the undertaking" were used in the Act to which the bridge owed its origin. That appeared from s. 1 of the Act, which incorporated the Companies Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation Act, 1845, and s. 2 of each of those Acts contained a definition of "undertaking." There could be no doubt that under the Newcastle-upon-Tyne and Berwick Railway Act, 1845, the roadway which the company incorporated by that Act were required under s. 23 to construct, together with the tolls which they were authorised by s. 37 to levy, was an integral part of the railway undertaking authorised by the Act. The railway bridge had, as appeared from s. 23, been authorised by the Act only on the terms that a roadway for the public benefit should also be constructed as part of it. The tolls which the company were authorised to levy in respect of that roadway went to increase the general revenue of the company's whole undertaking. The question whether or not the roadway on the bridge was a railway hereditament turned on the true effect of s. 1 (3) of the Act of 1930. He agreed with MacKinnon, J., that the expression "railway hereditament" no less than the word "undertaking" in the connection in which it had to be read in that section was an expression of widest content. It was difficult, with the Act of 1845 in mind, to reach any conclusion other than that the roadway was part of the "principal undertaking" of the company, and was a hereditament occupied for the purpose of that undertaking in the fullest sense of that word. If objection were taken to that construction, he (his lordship) was prepared to hold that the roadway was an undertaking "subsidiary or ancillary" to the "principal" or railway undertaking of the respondent company. The provisions of the Act of 1845 again, in his opinion, pointed to that conclusion. The concurrent solutions of the Railway Assessment Authority and the Railway and Canal Commission were correct, and the appeal should be dismissed with costs.

LORD RUSSELL OF KILLOWEN and LORD MAUGHAM delivered concurring judgments.

COUNSEL: *F. J. Wrottesley*, K.C., and *J. Charlesworth*, for the appellants: *Erskine Simes*, for the Railway Assessment Authority: *Walter Monckton*, K.C., *Trustram Eve*, K.C., and *A. Tylor*, for the London and North Eastern Railway Company.

SOLICITORS: *Collyer-Bristow & Co.*, agents for *Sir A. M. Oliver*, Town Clerk, Newcastle-upon-Tyne: *Torr & Co.*: *I. B. Pritchard*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

In re Mainwaring; Mainwaring *v.* Verden.

Lord Wright, M.R., Romer and Greene, L.JJ.
2nd and 3rd November, 1936.

MORTGAGE—PROPERTY MORTGAGED—BANKRUPTCY OF MORTGAGOR—CONVEYANCE BY TRUSTEE IN BANKRUPTCY OF PART OF MORTGAGED PROPERTY SUBJECT TO MORTGAGE—REST OF PROPERTY RETAINED—LIABILITY OF PURCHASER TO MORTGAGEES.

Appeal from a decision of Bennett, J.

By a mortgage made in December, 1920, M, who had life interests and an interest in the reversion under two settlements, borrowed £5,500 on the security of his interests under one of those settlements and of a policy of assurance on his life for £6,000. In July, 1931, he was adjudicated bankrupt, and in April, 1932, his trustee in bankruptcy conveyed his interests under the two settlements to the defendants, having sold them for £2,000. He did not convey any interest in the policy of life assurance. The conveyance was made expressly subject to certain specified incumbrances, one of which was the mortgage. M died in 1934. The question having arisen how the mortgage debt was to be borne, Bennett, J., held that it must be wholly borne by the property retained.

Lord WRIGHT, M.R., allowing the appeal of the trustee in bankruptcy, said that the contention that the whole of the debt should be borne by the property conveyed could not possibly succeed. The material question was whether there was contribution between the two properties. His lordship considered *In re Darby* [1907] 2 Ch. 465, and *In re Best* [1924] 1 Ch. 42. Though this debt was a personal debt, the sale was a sale for value and the assignor retained part of the mortgaged property, these considerations were outweighed by the fact that the sale was, in terms, a sale of an encumbered property and that the purchasers took on that footing. There was a right of contribution.

ROMER and GREENE, L.JJ., agreed.

COUNSEL: *Gover*, K.C., and *L. W. Byrne*: *Morton*, K.C., and *F. McMullan*: *E. M. Winterbotham*.

SOLICITORS: *Tarry, Sherlock & King*: *T. D. Jones & Co.*: *Gilbert Samuel & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re **Andrew : *Ex parte* Official Receiver (Trustee) (No. 2).**

Lord Wright, M.R., Romer and Greene, L.JJ.
3rd November, 1936.

Bankruptcy—Judgment Debt—Execution Levied—Arrangement for Sheriff's withdrawal from Possession—Debtor to Pay Instalments—Sheriff's Right of Re-entry reserved in Event of Default—Payments made—Subsequent Act of Bankruptcy by Debtor—Sheriff's Re-entry — Receiving Order — Whether Trustee in Bankruptcy entitled to Money paid to Judgment Debtor—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 40.

Appeal from a decision of Farwell, J.

In January. 1935, judgment was given against the debtor in favour of certain creditors for £83 0s. 4d., the balance of a debt, and £7 10s. costs. The creditors having caused a writ of *fieri facias* to be issued on the same day and delivered to the high sheriff, execution was levied on the 21st January, 1935. Two days later, by virtue of an arrangement between the creditors, the debtor and the sheriff's officer, it was agreed that the last-mentioned should withdraw from possession, the debtor paying £25 before the withdrawal on account of the debt and costs which he should thereafter discharge by monthly instalments of £10. In the event of default, the sheriff was to have the right to re-enter and take possession under the writ. The £25 and a certain sum towards costs having been paid, the sheriff's officer withdrew and on the 5th February remitted to the creditors £27 7s. 6d. (the £25 and £2 7s. 6d. for the costs of the execution). On the 20th February, the debtor paid the creditors £10, on the 25th March, £8 11s. 6d., and on the 13th May, £10 on account of the debt. On the 28th May, the debtor's solicitors sent a circular letter to all his creditors which constituted an act of bankruptcy. On the 6th June, in accordance with the previous arrangement, the sheriff re-entered and seized enough of the debtor's goods to realise the balance of the debt. A receiving order having been made on the 18th June, on the debtor's own petition, the sheriff handed over to the Official Receiver, the trustee in bankruptcy, the proceeds of the sale. The Official Receiver having also claimed £53 11s. 6d., being the sums paid by the debtor to the creditors on account of the debt, Farwell, J., held that he was not entitled to recover them.

Lord Wright, M.R., dismissing the Official Receiver's appeal, said that the question depended on whether the sums received by the creditors constituted "the benefit of the execution" within the Bankruptcy Act, 1914, s. 40. The Official Receiver had argued that the words meant the proceeds received in consequence of the execution, and that as these moneys were received by virtue of an agreement to induce the sheriff to withdraw, they were within the expression, and it was further said that as the sheriff had reserved the right of re-entering if the agreement was broken, the execution had not been completed within the meaning of the section before notice of the presentation of the bankruptcy petition or of the commission of the act of bankruptcy. The creditors had argued that the words did not refer to moneys actually received by the creditors in whole or partial satisfaction of the debt, whether under or in consequence of an execution or not, but to the charge which the creditors obtained by the issue of the execution; and that in so far as that charge had been reduced or abrogated by the payment of money, there was *pro tanto* no benefit of the execution to be considered, the sums so paid becoming the creditors' just as if they had been paid without an execution. It was said that what was meant by "the benefit of the execution," was the priority right over the debtor's goods for the debt constituted by the execution, and that s. 40 restricted the rights which an execution creditor would otherwise have at common law by virtue of the writ of execution, in the sense that if the charge had not been made effective in due time by seizure and sale, he lost the charge which otherwise he would have had at common law over the debtor's goods. That was the construction adopted in *In re Godwin* [1935] 1 Ch. 213, and *In re Samuels* [1935] 1 Ch. 341, which were rightly decided.

Romer and Greene, L.JJ., agreed.

Counsel: *The Solicitor-General* (Sir Terence O'Connor, K.C.) and *C. N. Davis*; *Stable*, K.C., and *Marlowe*.

Solicitors: *Solicitor to the Board of Trade*; *Wallington, Fabian & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Eastcheap Alimentary Products, Limited.**

Crossman, J. 20th, 21st and 22nd October, 1936.

Landlord and Tenant—Premises Let to Individuals—Used by Company whose Goods were on it—Judgment Debt against Company—Goods Seized in Execution—Rent Due—Whether Sheriff Entitled to Reimbursement—Landlord and Tenant Act, 1709 (8 Anne c. 14), s. 1.

On the 22nd February, 1934, an agreement was entered into between the Southern Railway Company of the one part and Theodore Barnard and Malcolm Gale (described as "trading as Eastcheap Alimentary Products, Limited") of the other part, whereby the railway company agreed to let to the tenants and the tenants jointly and severally agreed to take from the company certain premises for the purpose of storing canned goods and housing a motor lorry. The tenants jointly and severally covenanted to pay the rent reserved, £100 a year. Certain creditors of Eastcheap Alimentary Products, Limited, Wax and Vitale, Limited, having obtained a judgment for £37 4s. 3d. and £5 15s. costs against them on the 26th March, 1936, issued a writ of *fieri facias* against certain of their goods and chattels on the demised premises. The sheriff's officer, having taken possession of the goods on the same day, received notice from the landlords that £43 15s. 3d. rent was due. The Landlord and Tenant Act, 1709, s. 1, provided that "no goods or chattels whatsoever, lying on or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises, by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as are or shall be due for rent of the said premises at the time of the taking such goods or chattels by virtue of such execution." Therefore, on the 3rd April, the execution creditors sent a cheque for the amount of the rent to the sheriff (though there was no evidence that it had ever reached the landlords). On the 8th April, the debtor company went into voluntary liquidation, a resolution having been passed to that effect. On that day also the landlords applied to Barnard and Gale, the tenants, for payment of the rent. On the 24th April the liquidators wrote to the sheriff confirming "that we undertake to pay such legal charges as you are entitled to. . . . With regard to the rent . . . if we find that you are entitled to be reimbursed this rent, you have our assurance that such will be done. . . . In accordance with the arrangement made with you, I shall be glad if you will now hand order for delivery of the goods to the bearer of this letter." On the same day the sheriff delivered the goods taken in execution to the liquidators. The liquidators having subsequently decided that they were under no liability to repay the amount of the rent to the sheriff or the execution creditors, the execution creditors applied for an order that the liquidators should out of the goods taken in execution and subsequently received by them repay to the execution creditors or the sheriff on their behalf the sum of £45 15s. 3d. paid by the execution creditors to the sheriff for rent due to the landlords,

or so much of the sum as represented the value of the goods remaining after payment of the sheriff's proper charges. The Registrar, by his order made on the 27th July, made no order on the application, but ordered the applicants to pay the respondents' costs. By notice of motion dated the 18th August, 1936, the applicants asked that the time for appealing against that decision be extended and that the Registrar's order be discharged.

CROSSMAN, J., in giving judgment, said that there was no strict rule as to the time within which notice of motion to discharge an order made in chambers should be given, but on the analogy of an interlocutory appeal, fourteen days would ordinarily be proper. However, in the circumstances of this case the applicants ought to be allowed to proceed. Three points had been taken before the Registrar. The first suggestion that the sheriff should have been the applicant was disposed of by the sheriff being joined by the originating summons. However, it was to be noted that the sheriff was not a party to the present motion. The second objection, that the rent had not been paid to the landlords might be got over by some undertaking or by an order for the payment of the money. The third point was that it was said that the relation of landlord and tenant did not exist between the railway company and Eastcheap Alimentary Products, Limited, and that unless it existed the Landlord and Tenant Act, 1709, s. 1, did not apply. His lordship assumed that the first two objections could be got over and considered only this third point. The contention that the relationship must exist to make the section applicable was supported by "Redman on the Law of Landlord and Tenant" (8th ed.), p. 455, "Woodfall on Landlord and Tenant" (23rd ed.), p. 636, and "Foa on Landlord and Tenant" (6th ed.), p. 201. His lordship considered *Bennet's Case*, 2 Strange's Rep. 787; *Risley* v. *Ryle*, 10 M. & W. 101, 11 M. & W. 16; and *In re Mackenzie* [1899] 2 Q.B. 566, at p. 575, and said that in order to bring the Act into force the relationship of landlord and tenant must exist between the person claiming the rent and the execution debtor. Further, on the true construction of the agreement, the tenants were the two individuals. The Act did not apply and the applicants were not entitled to succeed.

COUNSEL: *Fortune; Wilfrid Barton.*

SOLICITORS: *Theodore Bell, Cotton & Curtis; M. Wilson Prentis.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

R. Gertzenstein Ltd.

Bennett, J. 28th October, 1936.

SOLICITOR—CO-LIQUIDATOR IN VOLUNTARY WINDING UP—PROCEEDINGS BROUGHT BY LIQUIDATORS IN WINDING UP—CONDUCTED BY SOLICITOR—WHETHER ENTITLED TO PROFIT COSTS—COMPANIES (WINDING UP) RULES, 1929, r. 158.

In the voluntary liquidation of the company, a chartered accountant and a solicitor were co-liquidators. In the course of the winding up, they impeached, on the grounds of fraudulent preference, certain transactions between the company and other persons, and issued an originating summons, the action being conducted by the solicitor on behalf of himself and his co-liquidator. A compromise having been reached and sanctioned, a consent order was passed on the 26th February, 1936. The Registrar held that the solicitor liquidator's profit costs should be disallowed. The joint liquidators now applied for a review.

BENNETT, J., in giving judgment, said that between the liquidators and the shareholders or creditors there was a fiduciary relationship preventing the liquidators from making a profit out of their trust and preventing a liquidator who was a solicitor from getting remuneration for work done as a solicitor and not a liquidator. It had been argued that *Cradock* v. *Piper*, 1 Mac. & G. 664, provided an exception to the general rule, but the Companies Winding-up Rules, r. 158, had to be interpreted by the rules of grammar, and, on its true interpretation, the Registrar was right.

COUNSEL: *Radcliffe*, K.C.; *Sir George Jones* and *C. F. Baron*; *H. H. King.*

SOLICITORS: *Abbott, Hudson & Anderson*; *Reeve, Reed & Johnson.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re F. J. Thomsett (an Infant); Thomsett *v.* Thomsett.

Crossman, J. 13th November, 1936.

INFANT—CUSTODY—MOTHER'S APPLICATION TO PETTY SESSIONS—ORDER GIVING HER SOLE CUSTODY—HUSBAND'S APPEAL TO CHANCERY DIVISION—APPLICATION FOR SECURITY FOR COSTS—GUARDIANSHIP OF INFANTS ACT, 1925 (15 & 16 Geo. 5, c. 45), s. 7.

On an application to petty sessions under the Guardianship of Infants Act, 1925, a married woman obtained an order for sole custody of the child of the marriage. Her whole earnings were 25s. a week. The husband having entered an appeal under s. 7 to the Chancery Division, the wife asked that he should give security for her costs of the appeal.

CROSSMAN, J., said that the rules left it open to him to order security to be given on special circumstances being shown. In the Court of Appeal the circumstances in which such security would be ordered included the appellant's inability to pay costs. There was no evidence that this appellant, if unsuccessful, would be unable to pay the respondent's costs. Divorce practice was founded on the ancient presumption of common law that a wife *primâ facie* had no means of her own. That was a thing apart: *Fletcher* v. *Fletcher* [1928] P. 20, and *Sirrell* v. *Sirrell* [1911] P. 38. The only case in which there was no evidence that the appellant could not pay was *L.* v. *L.* (55 SOL. J. 330). Those decisions in the Divorce Division were not applicable. The respondent, if she had no means, could oppose the appeal as a Poor Person. It would be far beyond the present practice to order security. The application would be dismissed and the costs reserved till the hearing of the appeal.

COUNSEL: *Geoffrey Lawrence*; *Andrew Clark.*

SOLICITORS: *John C. Bosley & Legg*, of Brighton; *Gordon Gardiner, Carpenter & Co.*, agents for *F. H. Carpenter & Veale*, of Brighton.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Dunlop Rubber Co. Ltd. *v.* W. B. Haigh & Son.

Macnaghten, J. 20th October, 1936.

DEED OF ASSIGNMENT—CREDITOR COMPANY HAVING SEVERAL BRANCHES—ASSENT TO DEED BY BRANCH MANAGER—SUBSEQUENT DISSENT BY DIFFERENT BRANCH MANAGER—WHETHER CREDITOR COMPANY BOUND BY AGENT'S ASSENT.

Action for the price of goods sold and delivered, and for the value of stock sold by the defendants on behalf of the plaintiffs.

The plaintiff company manufactured and sold rubber goods, having local branches controlled by local managers in different places, including Birmingham and Liverpool. The defendants were a partnership, and they owed the plaintiffs money for goods supplied to them by the plaintiffs' Liverpool and Birmingham branches. On the 20th August, 1936, the defendants entered into a deed of assignment for the benefit of their creditors, a trustee of the assignment duly being appointed. On the 8th September, the plaintiffs issued the specially endorsed writ in this action. On the 24th August, the plaintiffs' Liverpool branch manager had given a written assent to the deed of assignment. The Birmingham local manager had informed the trustee of the assignment that he would not assent to it. The deed provided, *inter alia*, that creditors who assented to the deed should, in consideration of

benefits obtained by them under the deed release the defendants from all debts and claims. It was contended for the plaintiffs that they were not bound by the deed through the assent given by their Liverpool manager, in view of the refusal to assent on the part of the Birmingham manager, to whose branch the defendants also owed money. The defendants contended that the plaintiffs were bound by their manager's assent, and that they were not entitled to sue for the amount now claimed.

MACNAGHTEN, J., said that there was no authority exactly in point. The plaintiffs had, by their Liverpool agent, assented to the deed of assignment, and were accordingly entitled to its benefits and bound by its obligations. If the plaintiffs' Birmingham manager had ignored the notice of the proposed deed sent to creditors by the trustee, the assent of the Liverpool manager would have covered all debts due from the defendants to the plaintiffs, unless and until the deed should be avoided, and the question therefore arose whether the position was altered by the Birmingham manager's subsequent refusal to assent. It could fairly be assumed that the Liverpool manager had no knowledge of any debts due by the defendants to the Birmingham branch, and that he would regard his authority to assent as being limited to debts owing to the branch under his control. That did not, however, conclude the matter. The plaintiff company being a single corporation, the assent given, by whichever agent, was a single assent not confined to a particular debt. In his (his lordship's) opinion, the assent of the Liverpool manager covered all debts at Liverpool and elsewhere, and was, once given, good for all purposes, with the result that the plaintiffs had no power subsequently by a different agent to refuse assent to the agreement. It had also been argued for the plaintiffs that the letter of assent sent by the Liverpool manager to the trustee was only an offer, and that it had been accepted only in respect of debts due to the Liverpool branch. He (his lordship) did not agree with that. The obligations under a deed of assignment were mutual, and affected the other creditors who assented to it. The assent of the Liverpool manager, in his (his lordship's) opinion, precluded the plaintiffs from suing, and there must accordingly be judgment for the defendants.

COUNSEL: *Patrick Devlin*, for the plaintiffs; *Tindale Davis*, for the defendants.

SOLICITORS: *Clifford-Turner & Co.: Corbin, Greener and Cook*, agents for *Hepworth & Chadwick*, Leeds.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

R. *v.* Cambridge County Council; *Ex parte* River Great Ouse Catchment Board.

Lord Hewart, C.J., Swift and du Parcq, JJ.
28th October, 1936.

LAND DRAINAGE—CATCHMENT BOARD—EXPENSES OF—APPORTIONMENT OF AMONG COUNTY COUNCILS—TO BE CALCULATED ON "ESTIMATED AMOUNT . . . PRODUCED BY A RATE . . ."—WHETHER COST OF AND LOSSES IN COLLECTION DEDUCTIBLE—LAND DRAINAGE ACT, 1930 (20 & 21 Geo. 5, c. 44), ss. 20, 22 (2).

Rule *nisi* for mandamus.

The River Great Ouse Catchment Board claimed from the Cambridge County Council £126, the balance of £7,074 demanded by the board from the council in a precept issued by the board in September, 1936, under s. 22 of the Land Drainage Act, 1930. The £7,074 was the amount apportioned on the council under s. 20 of the Act of 1930. The catchment area in question was not wholly comprised within, or co-terminous with, the administrative county of Cambridge, and accordingly, by s. 20, the board's expenses were to be apportioned among the several counties or county boroughs within or extending into the catchment area. By s. 22 (2) "the aggregate amount which may be demanded . . . in any one financial year by a catchment board from . . . any county . . . shall not . . . exceed the estimated amount which would be produced by a rate of 2d. in the £ levied on that part of the county . . . which is within the catchment area." The sum claimed by the board from the Cambridge County Council was based on the total rateable values in pounds of the hereditaments in that area of the county which came within the catchment area, multiplied by 2d. The amount paid by the council was based on an estimate of the produce of a rate calculated in the same way, but after deduction in respect of loss in and cost of collection, the contention of the council being that the board had made what was not an estimate but a mere mathematical calculation. The board accordingly obtained a rule *nisi* in respect of their claim for the balance of the sum which they considered due to them.

LORD HEWART, C.J., said that the case turned on the meaning of the words "estimated amount which would be produced by a rate of 2d. in the £" in s. 22 (2). The scheme of the Act of 1930 was that the expenses of the board should be apportioned among the various councils liable, on the basis of the totals of their rateable values respectively, subject to a provision that the aggregate amount which could be demanded from a council was not to exceed the estimated amount produced by a rate of 2d. in the £. The catchment board had based their calculation on the totals of the rateable values of the council's hereditaments within the catchment area. The council's contention that the produce of the rate should be estimated in the light of possible losses in, and of the cost of, collection, seemed to him (his lordship) to involve the fallacious suggestion that, in order that a calculation might properly fulfil the character of an estimate, there must be in it some ingredient of necessary inaccuracy and uncertainty. He could not take that view. What was being dealt with was not the produce of a rate in a past year, but the produce expected from a rate in a future year. The calculation could, therefore, not be actual, because it was an anticipation of the future, and it would have been idle for the legislature to use the words "the amount produced by a rate of 2d. in the £," because the amount produced in the previous year might be different from that produced in the next. In his opinion, the construction of the section advanced by the catchment board was the correct one, and the rule should be made absolute.

SWIFT and DU PARCQ, JJ., agreed.

COUNSEL: *Van den Berg*, K.C., and *G. Howard*, showed cause; *Montgomery*, K.C., and *Hubert Hull*, in support.

SOLICITORS: *Vincent & Vincent*, agents for *A. Tabrum*, Cambridge; *Simmons & Simmons*, agents for *E. T. L. Baker*, Cambridge.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Hollis Bros. & Co., Limited *v.* White Sea Timber Trust, Limited.

Porter, J. 9th, 11th November, 1936.

CONTRACT—PARTLY PRINTED PARTLY TYPEWRITTEN—SHORT DELIVERY OF GOODS—BUYER ENTITLED TO COMPENSATION UNDER PRINTED CLAUSE — SELLER PROTECTED FROM LIABILITY BY TYPEWRITTEN CLAUSE—WHETHER SELLER LIABLE.

Special case stated by an arbitrator.

The applicants, Hollis Bros. & Co., Ltd., contracted with the respondents (the present appellants) to purchase from them a quantity of parquet floor blocks produced at Igarka, a port in North Siberia, which had only a short navigation season, and where, consequently, trade had to be carried on under great difficulty. The sale was effected by a printed contract in ordinary c.i.f. form, with a number of typewritten clauses added to it, one of which was as follows: "This contract is subject to sellers making necessary chartering arrangements for the expedition and sold subject to shipment. Any goods not shipped to be cancelled." The buyers, having

claimed damages for short delivery under the contract, the arbitrator awarded in their favour subject to the opinion of the court. It was contended for the sellers that, on the principle laid down in *Glynn* v. *Margetson & Co.* [1893] A.C. 351, at p. 358, the typewritten words must prevail against the printed words, if there was inconsistency between them, and that the clause in question protected the sellers from liability for the short delivery, since, if for any reason the goods were not shipped, there was no liability for non-shipment. It was contended for the buyers that the contract was a business one to which a business construction must be given; that the construction advanced by the sellers would give them an option whether or not they would perform the contract; and that the typewritten clauses as a whole must be read with the printed form as a whole, and in a c.i.f. contract there was a fundamental obligation to ship the goods. *Cur. adv. vult.*

PORTER, J., said that the question for decision was the effect of the typed clause, in view of the fact that the printed part of the contract contained a provision that, in the event of short shipment, the buyers must take the short quantity actually shipped, but could claim compensation in respect of the shortage. In this case only about half the goods in one parcel had been shipped. The buyers had accepted that quantity, and, if the printed form had stood alone, they would have been entitled to compensation because the shortage was greater than that allowed by the clause, which allowed a certain variation from the quantity contracted for. There was, however, the typed clause. The law was that, where there was a contract containing both printed and written words, the court must, as far as possible, give a meaning to both. If, however, it was not possible to give effect to both, the written words must prevail and the printed words must be discarded. After consideration, he had come to the conclusion that he could not reconcile the typed clause "sold subject to shipment" with the printed clause allowing a claim for compensation in case of short shipment. It was argued that, if the sellers had an absolute option whether they would ship or not, it would have been unnecessary to insert the preceding words about making the necessary chartering arrangements. In mercantile documents, however, words were often put in where they were not strictly needed. It was also argued that, if the sellers could ship or not as they pleased, it would have been unnecessary to put into the contract a clause in the typed portion, differing slightly from a similar clause in the printed portion, allowing for a certain percentage more or less in the quantity shipped. But a meaning could be given to that variation clause by making it apply in cases where the sellers did exercise their option to ship. The clause was not happily drawn, but in his view it did in fact give the sellers an option whether they would ship or not, and the award must be in favour of the sellers.

COUNSEL: *Gordon Alchin*, for the appellants, the sellers; *W. L. McNair*, for the respondents, the buyers.

SOLICITORS: *Wynne-Baxter and Keeble; Pritchard Sons and Co.*, agents for *Andrew M. Jackson and Co.*, Hull.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Wright *v.* Bassetts Ltd.

du Parcq, J. 12th November, 1936.

CONTRACT—PURCHASE OF SLAG CONTAINED IN HEAP—MINIMUM ANNUAL SUM PAYABLE BY BUYERS—PAYMENTS TO CEASE IF NO SUITABLE SLAG "AVAILABLE"—REMAINING SUITABLE SLAG NOT EASILY ACCESSIBLE—FURTHER WORKING OF HEAP POSSIBLE BUT UNPRACTICAL—WHETHER REMAINING SUITABLE SLAG "AVAILABLE."

Special case stated by arbitrators under s. 9 of the Arbitration Act, 1934.

In December, 1927, a company, manufacturers of tarmac, entered into a contract to buy all the slag in a certain slag heap at a specified price per ton, a minimum sum payable per annum also being fixed. The contract also contained a provision that if no slag suitable for the manufacture of tarmac should be available the buyers' payments should cease. The buyers took away slag and made the stipulated payments for it until August, 1935, but then refused to take any more slag. They required the slag for use in their business, and they contended that by August, 1935, they had obtained all the slag in the heap which was suitable for making tarmac and reasonably accessible, so there was no obligation on them under the contract to take any more. The arbitrators found as a fact that by August, 1935, the greater part of the heap had gone, but that in the 160,000 tons left there was still a certain amount of slag, the greater part of which was soft and not suitable for use in making tarmac. They also found that so little of the slag remaining was suitable for making tarmac that further working of the heap by the buyers was not practicable. The arbitrators having stated a case for the decision of the court with regard to the legal position, it was contended for the seller of the slag that, on definitions of "available" to be found in the dictionary, slag which was suitable was available in that it was "capable of being made use of" or "at one's disposal," or "within one's reach." It was said that the buyers had taken off the heap all the slag which was easy to get and that if they had intended only to buy so much slag as they could use at a profit there should have been a provision to that effect in the contract.

DU PARCQ, J., said that the all-important word in the contract was "available," and it must be read in the particular sense which belonged to it in this contract. The contract was one between business men, and he took the word "available" in the contract to mean "capable of being made use of" from the point of view of a business man who was in business with the object of making tarmac not, say, as a curiosity to be placed in a museum, but as a saleable article which could be sold at a profit. The arbitrators had found that the quantity of suitable slag left was so small that further working was not practicable. On that finding it was, he thought, plain that no slag was available within the meaning of the contract. The award therefore must be in favour of the buyers.

COUNSEL: *Jackson*, K.C., and *R. H. Norris*, for the buyers: *A. de W. Mulligan*, for the seller.

SOLICITORS: *Buller, Cross & Jeffries*, Birmingham; *Onions & Davies*, Market Drayton.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CORRECTION.

Kirk *v.* **Eustace.**

We much regret that in the report of this case at pp. 914-5 of last week's issue, the solicitors for the respondent were given as Hilton Brown & Co.; they should have been *A. E. Hamlin, Brown & Co.*, agents for *Pearlman & Rosen*, of Hall.

[For Table of Cases previously reported in current volume see page xix of Advertisements.]

Rules and Orders.

THE COUNTY COURT DISTRICTS (NAME OF COURT) ORDER, 1936. DATED OCTOBER 19, 1936.

I, Douglas McGarel Viscount Hailsham, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by subsection (2) of Section 2 of the County Courts Act, 1934,* and all other powers enabling me in this behalf, Do hereby order as follows:—

1.—(1) Every County Court specified in the First Column of the Schedule to this Order shall be held under the name set opposite thereto in the Second Column.

* 24 & 25 Geo. 5. c. 53.

(2) Every other County Court held for a district in pursuance of Section 1 of the said Act shall be held under the name of the place or places in which the Court is held followed by the words "County Court":

Provided that where the place at which a County Court is held has the same name as another place in England or Wales, the name of the county in which the Court is held may be included in the name of the Court.

2. This Order may be cited as "The County Court Districts (Name of Court) Order, 1936," and shall come into operation on the 1st day of January, 1937, and the Order in Council dated the 9th day of March, 1847,† and the County Courts (Districts) Order in Council, 1899,‡ as amended, shall have effect as further amended by this Order.

Dated this 19th day of October, 1936.

Hailsham, C.

This Order, so far as it relates to any County Court held for a Duchy of Lancaster district, is made with my consent.

J. C. C. Davidson,
Chancellor of the Duchy of Lancaster.

SCHEDULE.

First Column. Present Name.	Second Column. New Name.
The Bloomsbury County Court of Middlesex.	Bloomsbury County Court.
The Bow County Court of Middlesex.	Bow County Court.
The Clerkenwell County Court of Middlesex.	Clerkenwell County Court.
The Lambeth County Court of Surrey.	Lambeth County Court.
The Marylebone County Court of Middlesex.	Marylebone County Court.
The Shoreditch County Court of Middlesex.	Shoreditch County Court.
The Southwark County Court of Surrey.	Southwark County Court.
The County Court of Surrey holden at Wandsworth.	Wandsworth County Court.
The Westminster County Court of Middlesex.	Westminster County Court.
The West London (Brompton) County Court of Middlesex.	West London County Court.
The Whitechapel County Court of Middlesex.	Whitechapel County Court.
The County Court of Staffordshire held at Hanley and Stoke-upon-Trent.	Hanley and Stoke-upon-Trent County Court.

† London Gazette, 10th March, 1847.

‡ S.R. & O. 1899, No. 178, printed as amended to 1903, S.R. & O. Rev. 1904, III, County Court, E., p. 1. For subsequent amendments see "Index to S.R. & O. in Force, July 31, 1936," at pp. 195-8.

PRACTICE DIRECTIONS RELATING TO PROCEEDINGS UNDER A MORTGAGE OR CHARGE IN THE CHANCERY DIVISION OTHER THAN FOR FORECLOSURE REDEMPTION OR SALE.

In every case the plaintiff's right to the Order sought must be made out. There is no right to an Order merely because the Defendant fails to appear.

ORDER 55: RULE 5A.

After Appearance:

An Appointment to hear the Originating Summons must be taken on the appropriate Form.

Notice of the Appointment together with a copy of the plaintiff's evidence in support of the Summons must be served not less than four clear days before the return day.

On taking the Appointment the original summons must be produced and the following papers must be left at Chambers:—

Copy Originating Summons;
Duplicate Memorandum of Appearance;
Original Affidavit in support (no office copy required) with original or copy mortgage or charge. The Affidavit must exhibit the mortgage or charge or a true copy thereof and in any case the original must be produced on the hearing. It must also show the state of the account as between Mortgagor and Mortgagee.

After an Order has been made the Solicitor will prepare the Order in the appropriate form in duplicate and take it to the Chancery Registrar to be passed and entered.

In Default of Appearance:

The plaintiff's Solicitor must lodge at Chambers when applying for an appointment the following documents:—

The Original and copy Originating Summons;
Certificate of noe Apparance;
Affidavit in support of Summons and exhibits;
Draft of the proposed Order.

The matter will normally be placed in the Master's list for the second day after the papers are lodged. No formal notice of appointment is required.

If an Order for delivery of possession is sought a Certificate signed by the plaintiff's Solicitor in the following form must be endorsed on the Affidavit in support:—

I certify that on the day of 19 a copy of the within Affidavit was sent by prepaid letter post addressed to the defendant at his residence upon which copy a Notice in the following form was endorsed:—

"To the Defendant by name

"Take notice that you the defendant having failed to "enter an appearance to the Originating Summons "herein the Plaintiff has sworn an Affidavit of which the "within is a true copy and will at the expiration of three "days from the date hereof apply to Master "Room No. Royal Courts of Justice Strand "London W.C.2 for an Order that you do deliver up to "the Plaintiff possession of the mortgaged property "[*describe it shortly*].

"Dated 19 .

"Plaintiff's Solicitor."

When a money judgment is sought but possession is not desired immediately the Originating Summons may ask for possession as well as for payment and the claim for possession will be allowed to stand over with liberty to restore the Summons as regards that claim. Thus the necessity of a second Originating proceeding will be obviated.

Substituted service.

No Summons need be issued. The Order will be made on the Affidavit.

Costs.

The scales of costs in force in the King's Bench Division will be adopted with the following additions in cases of default of appearance:—

£1 1 0 to be added where the amount recovered is under £100.

£1 11 6 to be added where the amount recovered is £100 or over, or whatever the amount where an Order is made for delivery of possession.

ORDER XIV.

If the plaintiff proceeds by Writ instead of by Originating Summons under O. 55 r. 5A the procedure relating to Originating Summons will apply *mutatis mutandis* except that if an appearance is entered a Summons under Order XIV where applicable will be issued instead of an appointment being taken to hear the Originating Summons.

NOTE.—Where in an action begun by writ judgment is given for possession in default of appearance no costs will be allowed.

11th November 1936. Issued by direction of the Judges of the Chancery Division.
(Signed) HARRY T. EVE.

Parliamentary News.

Progress of Bills.

House of Lords.

Airdrie Burgh Extension, &c., Order Confirmation Bill.
Reported. [18th November.

Railway Freights Rebates Bill.
Read First Time. [17th November.

House of Commons.

Airdrie Burgh Extension, etc., Order Confirmation Bill.
Read Third Time. [17th November.

Expiring Laws Continuance Bill.
Read Second Time. [17th November.

London Naval Treaty Bill.
Read First Time. [18th November.

Peace Bill.
Read First Time. [18th November.

Public Order Bill.
Read Second Time. [16th November.

Questions to Ministers.

LEGAL OFFICIALS (SALARIES).

Sir D. THOMSON asked the Secretary of State for Scotland what steps he proposes to take to see that the legal officials in Scotland, and particularly the sheriffs-substitute, receive a proportionate rise in salary to the County Court Judges and other magistrates in England.

Mr. ELLIOT: I propose forthwith to review the salaries of sheriffs and sheriffs-substitute in consultation with the Treasury. I may add that legislation is not required for this purpose, as the salaries in question are not fixed by Statute.

[17th November.

HIGH COURT OF JUSTICE (OFFICIAL SHORTHAND WRITERS).

Mr. DOBBIE asked the Attorney-General whether any further progress has been made on the question of appointing official shorthand writers in the High Court of Justice, or whether the legal authorities have abandoned this project; and, if so, upon what grounds.

THE SOLICITOR-GENERAL (Sir Terence O'Connor): The committee, which my noble Friend the Lord Chancellor set up under the chairmanship of Mr. Justice Atkinson to consider the position of official shorthand writers in the Supreme Court, has now presented its report, which is at the moment under consideration.

[18th November.

Societies.

Law Students' Debating Society.

CENTENARY DEBATE.

Mr. P. H. NORTH-LEWIS, the Treasurer, took the chair at the centenary debate of this Society held on 3rd November. The motion before the house was: "That the last hundred years has been wasted."

Mr. J. F. GINNETT said that everything turned on the word "waste," which he took to mean misuse. He emphasised the similarity between the conditions of the country to-day and those of 1836, and asked what could have been happening except misuse of the intervening time. Yet the condition of the country was actually worse than a hundred years ago, for now the whole of the world was involved—and yet everyone was busy preparing for another war. The most important events of the nineteenth century had been the beginning of machinery and of easy communications, and the idea that man was something which had climbed from the depths and was steadily rising until in time he might slap the angels on the back. Before the nineteenth century the attitude of man to himself and to the universe had had a totally different quality. The most damnable thing which had ever happened to mankind was the invention of the internal combustion engine. Everyone now rushed madly from place to place and had no time to stop and think. The time was not far distant when man would be quite incapable of living in himself, by himself, on himself and with himself, which was the only possible way to live. Culturally the nineteenth century had resulted in a dead end; it had experienced that which had been spoken of a long time ago in the words: "What shall it profit a man if he gain the whole world and lose his own soul?"

Mr. J. E. HAMMERTON (Dublin), opening against the motion, pointed out the many advancements in education, machinery, physical amenities and medical science. The vindication of the lower classes had been vitally necessary, and the efforts made to combat the unemployment which was the inevitable result of machinery were a sufficient justification of any century which had managed to deal with such a problem. There had also been advancements in politics and law; in the latter category he particularly mentioned the changes in Chancery procedure, the Judicature Act, 1870, and the Law of Property Act, 1925.

Mr. JOHN L. WILLIAMS, seconding the motion, argued that the last century had seen tremendous potentialities which it had failed to develop. The existence of poverty in the midst of plenty, of starvation side by side with destruction of food, was sufficient indictment of modern civilisation. The mentality which could spend three times as much on armaments as on education and could turn children out of school at fourteen, knowing that 37 per cent. of them would at once become unemployed, ought not to exist in any civilisation. The last hundred years had seen the decline of liberty and the barbaric baiting of individuals with different ideas from those in authority. There was a monstrous interference with personal liberty in the fact that 97 per cent. of the employed people of this country were under wage-earning contracts and only 3 per cent. were employers.

Mr. DONALD SHASHA (Manchester) argued that mass production meant production for the masses of simple luxuries formerly undreamed of; that the last century had seen reduction in infant mortality, the introduction of compulsory education and the emancipation of women; and that attention should be directed more to the sincere efforts to keep the peace than to the age-old problem of war.

After a lengthy debate the motion was lost by fifty-one votes.

CENTENARY DINNER.

Mr. R. P. CROOM-JOHNSON, K.C., M.P., took the chair at the centenary dinner of the Law Students' Debating Society, held at the Savoy Hotel, on 4th November. After the royal toasts had been honoured, LORD HEWART rose to propose the health of the Society. He said that any member of a distinguished debating society enjoyed many advantages, provided of course, that he was man enough to derive, and to be seen to derive, greater pleasure from expressing his own opinion than from listening to the opinions of other people. It was in a debating society, as often as not, that a person first exercised that startling privilege of an audacious man in a free country; of rising, if he could, to his feet and addressing his fellow-men. The career of a public speaker was eminently one in which the first step was one of the most important. The second speech was rarely so difficult as the first and, from having spoken once without disastrous results, a man or boy might derive confidence for later enterprises. Two young men who had borne respectively the honoured names of Grantham and Swinfen Eady had practised in the Law Students' Debating Society the forensic arts at which they were later to excel.

Mr. Registrar JONES, replying, pointed out that the Society was a type of pure democracy, as it had no president, no vice-president and no honorary members, and the committee was elected yearly, every member, including the officers, having to retire and seek re-election. There was not even a regular chairman at the meetings, for members of the committee took the chair in rotation so that everyone could enjoy the training which it gave. The Society had for many years received the greatest kindness and consideration from The Law Society, which gave it hospitality for its debates and lent it the reports dealing with the subject-matter.

The Rev. ARCHIBALD FLEMING then proposed "The Legal Profession," and said that he had originally intended to join it but had felt himself less unfitted for the Scottish Ministry. Meanwhile, Marshall Lang's eldest son had spent six or seven years in the Inner Temple, delicately balancing the pros and cons of the church and acquiring a valuable outfit for an Archbishop of Canterbury. The law and the Gospels had always owed much to one another.

Mr. Justice LANGTON, in reply, said of the other respondents to the toast, that he knew nothing against Mr. F. E. J. Smith, but only too much against Sir Patrick Hastings. Not only had he the frequent honour of being misled by Sir Patrick until he finished ingloriously in higher realms, but he had once had the pleasure of being teamed with him in a case which had concerned the expulsion of a member from a golf club, and in which it had been assumed that Mr. Justice Langton knew the rules of golf and Sir Patrick knew those of law. Which was the more absurd and unwarrantable assumption it would be difficult to say. It was a difficult matter to answer for all the judges. He did not mind answering for Mr. Justice Bennett, whose assets, owing to his grasp of Chancery procedure, would always outweigh his liabilities, but it was another matter to answer for so versatile a judge as the Lord Chief Justice, who at one moment told amusing American stories on top of the Victoria Falls, at another smiled at the world from the *Sunday Times*, and at a third opened a library amidst vociferous applause.

SIR PATRICK HASTINGS, K.C., also in reply, said that, being almost as old as the Society, he had heard that toast proposed hundreds of times and had never felt that the speaker was telling the truth. Lawyers might be unpopular, but they were the persons to whom a married woman went when she wanted to change her husband, or a motorist went when he had an argument with a policeman at a street crossing.

Mr. F. E. J. SMITH, vice-president of The Law Society, replying for the solicitors, recalled that when he was a shy undergraduate at Oxford and a member of the Canning Club, Joseph Chamberlain had been making history at Birmingham by his attack on the current system of education. No less a person than the secretary of the society, who was called Cosmo Lang, had ordered him to read a paper on free education, which he had done, coming down heavily in favour of it.

His expulsion had been moved by Lord Robert Cecil, who, he was glad to say, had found no seconders. His advocacy of the new order had been due to his experience of voluntary education in a Chiltern village, where a ploughman who wished his child to learn the three R's had to pay threepence for the first child, twopence for the second, one penny for the third, and sevenpence for any larger number up to ten. Some five or six years afterwards, Lord Robert Cecil's father, as Prime Minister, had moved the abolition of the existing system and introduced free education, a fact on which Mr. Smith had never ceased to chaff Lord Robert.

Mr. JOHN MORRIS, K.C., proposed the health of the guests, all of them, he declared, masters of the spoken and written word and versed in all those arts and graces which must be much envied by members of any debating society. In England, man took to debating as ladies took to knitting, and were willing to put up with much plain for the sake of an occasional purl. If the battle of Waterloo had been won upon certain playing fields, it was equally true that many liberties had been won or preserved in the debating societies of England. Mr. Justice Bennett, who was to reply, was on the Chancery Bench but was not unfamiliar with the live thrills of common law, and had always been able to merge the rich robustness of common law with the exquisite eloquences of equity.

Mr. Justice BENNETT, in reply, said that, whatever might be the guests' opinions about the last hundred years, they would at any rate feel that they had not wasted the last 220 minutes. The Chancery Bar maintained the principle of separate representation, but there were no conflicting interests present to need it.

SIR PHILIP GIBBS then proposed the health of the chairman, and narrated many reminiscences of his long friendship with Mr. Croom-Johnson; how they had dwelt with gay hearts, great dreams, and empty pockets, in "Intellectual Mansions," in a street south of Battersea Park, and how he had nearly ruined his friend's career at the Bar by tempting him away to write articles for an obscure periodical which he had once edited, at a remuneration of half a guinea for three thousand words. He described the chairman as a Hitler and a Mussolini of debate and a most popular friend, who made the chair itself look big, and who at the Bar stood higher than his inches; when, as his friends expected, he was called to the Bench, he would be big enough to sit on the Bar. He should forsake his rather squalid profession, enter more freely into the political game and become one of those leaders who would take the country out of the dark jungle in which they were all lost.

The CHAIRMAN briefly replied.

Among those present were: The Earl of Drogheda, Lord Hewart of Bury, Mr. Justice Bennett and Lady Bennett, Sir Edmund Cook, C.B.E., and Lady Cook, Sir Graham Esplen and Lady Esplen, Sir Philip Gibbs and Lady Gibbs, Sir Patrick Hannon, M.P., and Lady Hannon, Sir Patrick Hastings, K.C., and Lady Hastings, Lady Paget, Mr. John Morris, K.C., Mr. and Mrs. M. C. Batten, Mr. and Mrs. H. J. Baxter, Dr. E. L. Burgin, M.P., and Miss M. Burgin, Dr. and Mrs. E. J. Cohn, Mrs. Earengay, J.P., Professor T. J. Evans, The Rev. Archibald and Mrs. Fleming, Mr. J. E. Hammerton, Mr. P. W. Iliff, Mr. Registrar Jones, Mr. John Latey, Mr. and Mrs. H. North Lewis, Mr. D. Shasha, Mr. F. E. J. Smith and Mr. and Mrs. A. L. Ungoed Thomas.

At a meeting of the Society held at The Law Society's Court Room on Tuesday, 27th October, 1936 (Chairman, Mr. P. H. North Lewis), the subject for debate was: "That the public school system is out of date and should be abolished." Mr. J. R. Campbell Carter opened in the affirmative, Mr. C. A. G. Simkins opened in the negative. The following also spoke: Messrs. J. B. Latey, P. W. Iliff, A. Lyell, D. H. McMullen and S. C. Baron. The opener having replied, the motion was lost by eight votes. There were seventeen members and three visitors present.

At a meeting of the Society held at The Law Society's Court Room on Tuesday, 10th November, 1936 (Chairman, Mr. E. V. E. White), the subject for debate was: "That the case of *Hollywood Silver Fox Farm Ltd.* v. *Emmett* [1936] 2 K.B. 468, was wrongly decided." Mr. R. W. Rainsford Hanney opened in the affirmative. Mr. Q. B. Hurst opened in the negative. Mr. Andrew Lyell seconded in the affirmative. Mr. R. Fells seconded in the negative. The following members also spoke: Messrs. G. M. Parbury, D. H. McMullen, J. E. Terry, G. Russo, A. T. Wilson, J. Montgomerie, A. Lyell, R. E. Selby, W. M. Pleadwell, P. W. Iliff and R. G. D. Butler. The opener having replied and the Chairman having summed up, the motion was lost by nine votes. There were twenty-three members and five visitors present.

Middle Temple.

GRAND DAY.

Tuesday, 10th November, being the Grand Day of Michaelmas Term at the Middle Temple, the Master Treasurer (Viscount Sankey) and the Masters of the Bench entertained at dinner the following guests: The Turkish Ambassador, the Austrian Minister, the Hungarian Minister, the Earl of Onslow, Lord Hewart (Lord Chief Justice of England), Lord Blanesburgh, Captain W. G. A. Ormsby-Gore, M.P., Mr. J. R. Clynes, M.P., Colonel Sir John Gilmour, M.P., Mr. Neville Chamberlain, M.P., Sir Thomas Inskip, M.P., Sir Boyd Merriman (President of the Probate, Divorce, and Admiralty Division), Sir Herbert Creedy, Sir William Llewellyn (President of the Royal Academy), Sir Maurice Gwyer, K.C., Dr. A. F. Morcom, M. Hugh M. Ingledew, Principal J. F. Rees, Mr. Hugh Dalton, M.P., Mr. H. A. Dowson (President of The Law Society), Mr. Owen Temple Morris, M.P., Mr. Ronald Gurner (Headmaster, Whitgift School), and Mr. Malcolm MacNaughtan.

The Benchers present, in addition to the Treasurer, were: Judge Ruegg, K.C., Sir Ellis Hume-Williams, K.C., Mr. Justice Horridge, Lord Craigmyle, Viscount Dunedin, Mr. L. De Gruyther, K.C., Sir Lynden Macassey, K.C., Mr. Heber Hart, K.C., Mr. Justice Hawke, The Hon. S. O. Henn Collins, K.C., Mr. A. M. Dunne, K.C., Lord Cautley, K.C., Mr. J. M. Gover, K.C., Mr. J. Bruce Williamson, Mr. A. T. Miller, K.C., Mr. J. Scholefield, K.C., Sir William Jowitt, K.C., Mr. W. Craig Henderson, K.C., Sir Edward Tindal Atkinson, Mr. Walter Frampton, Mr. A. B. Babington, K.C., Lord Strathcarron, K.C., Mr. J. Bowen Davies, K.C., Colonel Sir Henry F. MacGeagh, K.C., Mr. Justice du Parcq, Judge Lilley, Sir Thomas Molony, Mr. A. Ralph Thomas, Mr. Raymond Needham, K.C., Mr. Henry Johnston, Mr. Trevor Hunter, K.C., and Lord Reading, K.C., with Canon Harold Anson (the Master of the Temple), The Rev. J. F. Clayton (Reader at the Temple Church), and the Under-Treasurer (Mr. T. F. Hewlett).

Lincoln's Inn.

GRAND DAY.

Tuesday, 10th November, being Grand Day in Michaelmas Term, at Lincoln's Inn, the Treasurer (Lord Russell of Killowen) and the Masters of the Bench entertained the following at dinner: The Swedish Minister, Lord Thankerton, Lord Macmillan, Lord Plender, Sir Shadi Lal, Mr. C. R. Attlee, M.P., Sir Claud Schuster, Sir Henry Badeley, Sir Giles Gilbert Scott, R.A., Sir Edwin Deller (Principal of the University of London), Mr. A. W. Roebuck, K.C. (Attorney-General for Ontario), Mr. W. D. Ross (Provost of Oriel College, Oxford), Mr. John B. McNair, K.C. (Attorney-General for New Brunswick), Mr. H. M. Hake (Director of the National Portrait Gallery), Mr. Colin Smith (Registrar of the Privy Council), Mr. L. S. St. Lawrent, K.C., Mr. W. T. S. Stallybrass, Serjeant A. M. Sullivan, K.C., Mr. P. W. Duff, Mr. E. C. S. Wade, Professor David Hughes Parry, Mr. Theodore Henry Tylor, the Preacher (The Venerable V. F. Storr, Archdeacon of Westminster), the Chaplain (The Rev. Randolph Tasker), and the Under-Treasurer (Sir Reginald Rowe).

The Benchers present in addition to the Treasurer were: Sir Alfred Hopkinson, K.C., Mr. Justice Eve, Sir Paul Lawrence, Mr. C. E. E. Jenkins, K.C., Sir Frederick Pollock, K.C., Lord Justice Romer, Lord Alness, Sir Felix Cassel, K.C., Mr. Justice Clauson, Mr. Justice Macnaghten, Lord Justice Best, Mr. F. H. L. Errington, Mr. Theobald Mathew, Mr. Justice Swift, Lord Maugham, Mr. R. E. L. Vaughan Williams, K.C., Sir Herbert Cunliffe, K.C., Sir Malcolm McIlwraith, K.C., Judge Thompson, K.C., Mr. Justice Luxmoore, Judge Kennedy, K.C., Mr. F. T. Barrington-Ward, K.C., Sir William Holdsworth, K.C., Mr. H. A. Hollond, Sir Gerald Hurst, K.C., Mr. W. E. Tyldesley Jones, K.C., His Honour Hugh Sturges, K.C., Mr. A. M. Latter, K.C., Mr. A. F. Topham, K.C., Mr. Justice Crossman, Mr. Tom Eastham, K.C., Mr. J. H. Stamp, Mr. A. L. Ellis, Mr. Justice Bennett, Mr. Gavin Simonds, K.C., Mr. R. H. Hodge, Mr. F. D. Morton, K.C., Mr. R. A. Willes, Sir George Rankin, Mr. W. Cleveland-Stevens, K.C., Mr. J. Norman Daynes, K.C., Mr. Lewis Noad, K.C., Mr. A. P. Vanneck, Mr. C. E. R. Abbott, Mr. T. Linton Thorp, K.C., and Mr. Evelyn Riviere.

The Hardwicke Society.

A meeting of the Society was held on Friday, 6th November, 1936, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. J. A. Petrie) in the chair. Mr. G. F. T. Wagstaff moved: "That this House would welcome the renewal of Anglo-Italian friendship." Mr. T. J. Southall

opposed. There also spoke: Mr. Chinmulgund, Mr. Fearnehough, Mr. G. E. Llewellyn Thomas (Hon. Treasurer), Mr. Maclaren, Mr. Grieves, Mr. Lewis Sturge (Hon. Secretary), Mr. A. Newman Hall (ex-President), Mr. James A. Petrie (President), Captain Norman Edwards, Mr. Willis and Mr. Hardinge. The hon. mover having replied, the House divided, and the motion was carried by one vote.

A meeting of the Society was held on Friday, 13th November, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. W. A. Button moved "That there is no longer any justification for depriving Germany of colonies." Mr. T. K. Wigan opposed. There also spoke Mr. Campbell Prosser, Mr. A. C. Douglas, Mr. Whitfield, M. Picarda, Mr. Grieves, Mr. Simmons, Capt. Norman, Mr. J. A. Petrie (President), and Mr. Lewis Sturge (Hon. Secretary). The hon. mover having replied, the house divided, and the motion was lost by nine votes.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 9th November, at 8 p.m. Mr. H. W. Pritchard proposed the motion: "That in the opinion of this House the employment of stipendiary magistrates is extravagant and unnecessary." Mr. H. Everett opposed. Miss Colwill, Messrs. Bartholomew, Gibbons, McQuown, Walton and Vine Hall also spoke, and Mr. Pritchard replied. The motion was put to the House and lost by one vote. Attendance sixteen, including three visitors.

A meeting of the United Law Society was held in the Middle Temple Common Room, on Monday, 16th November, at 8 p.m. Mr. D. L. Taylor proposed the motion "That this house would regret the placing of any restrictions upon the wearing of political uniforms." Mr. J. L. P. Harris opposed. Miss Colwill and Messrs. G. H. Pritchard, Birk, Sharp (a visitor), Gladston, Rafferty, Owens, Wood-Smith, R. Hall, Ball, Vine Hall, Batley (a visitor), Gibbons and Hill also spoke. The motion was put to the house and carried by two votes. There were eighteen members and three visitors present.

The Union Society of London.

JOINT DEBATE WITH THE GRAY'S INN DEBATING SOCIETY.

A meeting of the Society was held at the Middle Temple Common Room on Wednesday, the 11th November, at 8.15 p.m., the President (Mr. S. R. Lewis) being in the chair. Mr. Hubert Moses proposed the motion: "That this House is unable to approve of the policies enunciated in the King's Speech." Mr. N. Ker Lindsay, formerly M.P. (Conservative) Bristol South, opposed, and Messrs. D. W. Dobson, Sir John Prichard-Jones, Bt., H. Salter Nichols, P. V. Anthony, Walter Stewart, E. R. Wakefield, I. Aaronson, C. R. Hurle-Hobbs, J. P. R. Oakes, H. M. Fraser, A. D. Russell-Clarke and Capt. F. J. Parker also spoke. Mr. Moses replied. Upon division the motion was lost by five votes.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 11th November, at 8.15 p.m., the President, Mr. S. R. Lewis, being in the chair. Mr. Walter Stewart proposed the motion, "That this House would welcome the formation in this country of a popular front." Mr. D. W. Llewellyn opposed, and Messrs. H. Salter Nichols, C. R. Hurle-Hobbs, Kenneth Ingram, J. M. Buckland, A. Sandilands, S. R. Lewis, D. W. Dobson, J. P. R. Oakes, J. C. Irwin, H. M. Fraser and Norman Craig also spoke; Mr. Walter Stewart replied. Upon division the motion was lost by one vote.

The Dublin Law Students' Debating Society.

A meeting of the Society was held in King's Inns on Tuesday, 10th November, with Mr. Gorland, B.L., in the chair. The case of *Hulton* v. *Jones*, reported in L.R. 1910 A.C., was argued at some length. The case was by way of appeal from a decision of the courts below. Mr. McDermott opened for the appellant company, supported by Messrs. Barron, Jennings, McDevitt and Duibiter. Mr. Mason, followed by Messrs. Heavy, Borrifield-England, McSwiney and Peart, replied for the respondent. The chairman, after hearing lengthy argument from both sides, dismissed the appeal.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. EUSTACE CECIL FULTON be appointed Chairman of the County of London Sessions, to succeed the late Sir Henry Curtis Bennett, K.C. Mr. Fulton, who was called by the Middle Temple in 1904, has been Senior Prosecuting Counsel to the Crown at the Central Criminal Court since 1932. He was appointed Recorder of Rye in 1931.

Mr. Justice CURLEWIS, of the Appellate Division of the Supreme Court of the Union of South Africa, has been appointed Chief Justice in succession to the late Sir Johannes Wessels.

In consequence of the appointment of Mr. Eustace Fulton, the Senior Prosecuting Counsel to the Crown at the Central Criminal Court, as Chairman of the London Sessions, the Attorney-General has made the following appointments: Mr. GEOFFREY D. ROBERTS, to be Senior Counsel; Mr. GEORGE BUCHANAN MCCLURE, to be Second Senior Counsel; Mr. LAURENCE A. BYRNE, to be Third Senior Counsel; Mr. E. ANTHONY HAWKE, to be First Junior Counsel; Mr. TRAVERS CHRISTMAS HUMPHREYS, to be Second Junior Counsel; Mr. STEPHEN GERALD HOWARD, to be Third Junior Counsel.

Mr. H. C. GUTTERIDGE, K.C., and Mr. WILFRID PRICE have been elected Masters of the Bench of the Middle Temple.

Mr. EVELYN RIVIERE has been elected a Bencher of Lincoln's Inn in place of the late Sir Percival Clarke.

Mr. H. KIRK has been appointed Town Clerk of Wareham in succession to Mr. J. W. Miller, who has resigned after holding that office for the past fifteen years. Mr. Kirk was admitted a solicitor in 1936.

Mr. C. M. HUMPHRIES has been appointed Clerk to the Commissioners of Income Tax for the Wareham Division. Mr. Humphries was admitted a solicitor in 1923.

Mr. J. R. ENNION, solicitor, has been appointed Clerk to the Justices of the Newmarket, Cambs. and Suffolk Petty Sessional Divisions, in succession to the late Mr. F. G. Russell. Mr. Ennion was admitted a solicitor in 1934.

The Board of the Faculty of Law at Oxford University has awarded the Winter Williams Law Scholarship, 1936, to D. R. Ellison, Balliol College. The work of J. B. Butterworth, the Queen's College, is specially commended.

Professional Announcements.

(2s. per line.)

Mr. J. W. MILLER, solicitor, of Wareham, Dorset, has disposed of his practice in Wareham and Swanage to Mr. C. M. HUMPHRIES, M.A. (Oxon), and Mr. H. KIRK, M.A. (Oxon), LL.B. (Lond.), who will practise under the style of "Humphries, Kirk & Miller," at Glebe House, North Street, Wareham, and 28, Institute Road, Swanage.

Wills and Bequests.

Mr. Thomas Joseph Morgan, solicitor, of Wellingborough left estate of the gross value of £18,614, with net personalty £15,531. He left £50 to Montgomeryshire Infirmary and £50 to Wellingborough Cottage Hospital.

Mr. John Tidd Pratt, solicitor, of Newark-on-Trent, left estate of the gross value of £70,471, with net personalty £68,598. He left £100 to Newark Town and District Hospital and Dispensary.

Notes.

The Council of Legal Education has issued the prospectus of lectures to be delivered at Lincoln's Inn during Hilary Term, 1937.

The German Supreme Court at Leipzig has ruled that the German Broadcasting Company may not broadcast gramophone records of music without compensation to their makers.

The Minister of Agriculture and Fisheries and the Secretary of State for Scotland have appointed Mr. P. E. Sandlands, K.C., to hold a public inquiry into objections received with respect to the scheme submitted to them for regulating the marketing in Great Britain of certain milk products. The hearing will be opened on Monday, 30th November, at Niblett Hall, 3, North, King's Bench Walk, Temple, London, E.C.4.

Alderman Alfred Brooks, the senior deputy chairman, was nominated for election as Chairman at the next Essex Quarter Sessions at Chelmsford last Wednesday. He succeeds the late Sir Henry Curtis Bennett, K.C.

A Blackstone Prize of £105 (twelve of which are offered annually to students of the Middle Temple by Masters of the Bench) has been awarded to Mr. Magnus Ian Mail, of King's College, Cambridge, for equity.

"Practice at the Irish Bar" was the subject of the "Reading" by Serjeant Sullivan, K.C., the Autumn Reader, in the Middle Temple Hall on the 12th November. Lord Sankey, the Master Treasurer, presided.

The London Branch of the Incorporated Society of Auctioneers and Landed Property Agents held its eleventh annual dinner at the Park Lane Hotel on the 12th November. Mr. Henry J. Davis, chairman of the branch, presided.

The service of summonses on defendants at their employers' premises was described by Judge Spencer Hogg at Lambeth County Court recently as "a wicked practice." "I am not going to tolerate this procedure," he declared, "because it imperils the employment of a man. I am determined to stop it so far as this court is concerned."

The Solicitors' Managing Clerks' Association announces that a Lecture will be given on Friday, 27th November, in the Inner Temple Hall (by kind permission of the Benchers) by Mr. J. H. Bowe, on "Some Anomalies and Pitfalls in relation to Income Tax." The chair will be taken at 7 o'clock precisely by The Right Hon. Lord Justice Greene. Meeting ends at 8 p.m.

After taking the oath as chairman of the magistrates on Monday, says *The Times*, Major T. V. Rebbeck, Mayor of Bournemouth, referred to the controversy as to the appointment of stipendiary magistrates or unpaid magistrates. He said: "It is generally admitted that it would be a retrograde step if stipendiary magistrates took the place of unpaid magistrates in a town like Bournemouth. An unpaid magistrate does not need a great knowledge of the law. What he needs is some commonsense, a knowledge of some of the troubles and difficulties of the real poor, and a desire to give every one a square deal."

A most successful dinner in celebration of the Centenary of the General Reversionary and Investment Company was held at the Savoy Hotel last Wednesday, Mr. Francis E. J. Smith, Chairman of the directors of the Company and Vice-President of The Law Society, being in the chair. There were about 150 guests and members of the company present. The toast of "the Company" was proposed by Sir Harry G. Pritchard, Past-President of The Law Society, and the Chairman responded. Sir Courtauld Thomson, K.B.E., C.B., proposed "The Guests," and Mr. G. S. Worthington Epps, C.B., C.B.E., Government Actuary, replied.

Court Papers.

Supreme Court of Judicature.

Date.	Emergency Rota.	Appeal Court No. I.	Group I. Mr. Justice Eve. Witness. Part II.	Group I. Mr. Justice Bennett. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Nov. 23	Ritchie	Hicks Beach	*Ritchie	More
,, 24	Blaker	Andrews	Andrews	Ritchie
,, 25	More	Jones	*More	Andrews
,, 26	Hicks Beach	Ritchie	*Hicks Beach	Jones
,, 27	Andrews	Blaker	Blaker	Hicks Beach
,, 28	Jones	More	Jones	Blaker
	Group I. Mr. Justice Crossman. Witness. Part I.	Mr. Justice Clauson. Witness. Part I.	Group II. Mr. Justice Luxmoore. Non-Witness.	Mr. Justice Farwell. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
Nov. 23	*Andrews	*Blaker	Jones	Hicks Beach
,, 24	*More	*Jones	Hicks Beach	*Blaker
,, 25	*Ritchie	*Hicks Beach	Blaker	Jones
,, 26	*Blaker	Andrews	More	Ritchie
,, 27	Jones	*More	Ritchie	*Andrews
,, 28	Hicks Beach	Ritchie	Andrews	More

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 3rd December, 1936.

	Div. Months.	Middle Price 18 Nov. 1936.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	116	3 9 0	2 18 7
Consols 2½%	JAJO	85½	2 18 6	—
War Loan 3½% 1952 or after	JD	106⅝	3 5 8	2 19 5
Funding 4% Loan 1960-90	MN	118	3 7 10	2 18 4
Funding 3% Loan 1959-69	AO	102	2 18 10	2 17 6
Funding 2½% Loan 1956-61	AO	93	2 13 9	2 18 2
Victory 4% Loan Av. life 23 years	MS	116	3 9 0	3 0 5
Conversion 5% Loan 1944-64	MN	117¾	4 4 11	2 4 8
Conversion 4½% Loan 1940-44	JJ	110	4 1 10	2 7 2
Conversion 3½% Loan 1961 or after	AO	107⅞	3 4 11	3 0 10
Conversion 3% Loan 1948-53	MS	104	2 17 8	2 11 7
Conversion 2½% Loan 1944-49	AO	101¼	2 9 4	2 6 2
Local Loans 3% Stock 1912 or after	JAJO	98	3 1 3	—
Bank Stock	AO	379	3 3 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	89	3 1 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
India 4½% 1950-55	MN	115	3 18 3	3 1 8
India 3½% 1931 or after	JAJO	99¾	3 10 2	—
India 3% 1948 or after	JAJO	88	3 8 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	114½	3 9 10	2 14 10
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 13 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	111	4 1 1	2 3 2
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	94	2 13 2	2 18 3
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 4 4
*Australia (C'mm'nw'th) 3¼% 1948-53	JD	104xd	3 12 1	3 6 10
Canada 4% 1953-58	MS	113	3 10 10	3 0 2
*Natal 3% 1929-49	JJ	102	2 18 10	—
*New South Wales 3½% 1930-50	JJ	102	3 8 8	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	115	3 9 7	3 3 4
*Queensland 3½% 1950-70	JJ	102	3 8 8	3 6 2
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	99	3 0 7	—
*Croydon 3% 1940-60	AO	101	2 19 5	2 13 1
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	82	3 1 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	97½	3 1 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	—
Metropolitan Water Board 3% "A" 1963-2003	AO	99	3 0 7	3 0 8
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 16 11
Middlesex County Council 4% 1952-72	MN	113½	3 10 6	2 18 7
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	125	4 0 0	—
Southern Rly. 4% Debenture	JJ	113½	3 10 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112¼	3 11 1	3 5 6
Southern Rly. 5% Guaranteed	MA	133½	3 14 11	—
Southern Rly. 5% Preference	MA	125	4 0 0	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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Stock
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